

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Ting

January 16, 2015

An act to amend Sections 17024.5, 17053.46, 17053.47, 17053.74, 17088, 17144, 17215, 18155, *19138*, 19141.5, 19164, 19167, 19183, 19772, 23622.7, 23622.8, 23646, 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, to add Sections 17240, 17241, 17323, 19131.5, 24345.5, 24454, and 24459 to, and to repeal Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Ting. Taxation: federal conformity.

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2010, the specified date of those referenced Internal Revenue Code sections is January 1, 2009, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board

prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, extension of time for the payment of taxes, deductions for annual fees on branded prescription pharmaceutical manufacturers and importers, and penalty amounts related to *understatements of tax* or the failure to file specified returns or include specified information on returns.

This bill would also specify various dates on which specified provisions apply and repeal obsolete provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17024.5 of the Revenue and Taxation
- 2 Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991.....	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992.....	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December	

1 31, 1996..... January 1, 1993
2 (K) For taxable years beginning on or after
3 January 1, 1997, and on or before December
4 31, 1997..... January 1, 1997
5 (L) For taxable years beginning on or after
6 January 1, 1998, and on or before December
7 31, 2001..... January 1, 1998
8 (M) For taxable years beginning on or after
9 January 1, 2002, and on or before December
10 31, 2004..... January 1, 2001
11 (N) For taxable years beginning on or after
12 January 1, 2005, and on or before December
13 31, 2009..... January 1, 2005
14 (O) For taxable years beginning on or after
15 January 1, 2010, and on or before December
16 31, 2014..... January 1, 2009
17 (P) For taxable years beginning on or after
18 January 1, 2015..... January 1, 2015
19

20 (2) (A) Unless otherwise specifically provided, for federal laws
21 enacted on or after January 1, 1987, and on or before the specified
22 date for the taxable year, uncodified provisions that relate to
23 provisions of the Internal Revenue Code that are incorporated for
24 purposes of this part shall be applicable to the same taxable years
25 as the incorporated provisions.

26 (B) In the case where Section 901 of the Economic Growth and
27 Tax Relief Act of 2001 (Public Law 107-16) applies to any
28 provision of the Internal Revenue Code that is incorporated for
29 purposes of this part, Section 901 of the Economic Growth and
30 Tax Relief Act of 2001 shall apply for purposes of this part in the
31 same manner and to the same taxable years as it applies for federal
32 income tax purposes.

33 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
34 H (Repeal of Expired or Obsolete Provisions) of the Revenue
35 Reconciliation Act of 1990 (Public Law 101-508) modified
36 numerous provisions of the Internal Revenue Code and provisions
37 of prior federal acts, some of which are incorporated by reference
38 into this part. Unless otherwise provided, the provisions described
39 in the preceding sentence, to the extent that they modify provisions
40 that are incorporated into this part, are declaratory of existing law

1 and shall be applied in the same manner and for the same periods
2 as specified in the Revenue Reconciliation Act of 1990.

3 (b) Unless otherwise specifically provided, when applying any
4 provision of the Internal Revenue Code for purposes of this part,
5 a reference to any of the following is not applicable for purposes
6 of this part:

7 (1) Except as provided in Chapter 4.5 (commencing with Section
8 23800) of Part 11 of Division 2, an electing small business
9 corporation, as defined in Section 1361(b) of the Internal Revenue
10 Code.

11 (2) Domestic international sales corporations (DISC), as defined
12 in Section 992(a) of the Internal Revenue Code.

13 (3) A personal holding company, as defined in Section 542 of
14 the Internal Revenue Code.

15 (4) A foreign personal holding company, as defined in Section
16 552 of the Internal Revenue Code.

17 (5) A foreign investment company, as defined in Section 1246(b)
18 of the Internal Revenue Code.

19 (6) A foreign trust, as defined in Section 679 of the Internal
20 Revenue Code.

21 (7) Foreign income taxes and foreign income tax credits.

22 (8) Section 911 of the Internal Revenue Code, relating to citizens
23 or residents of the United States living abroad.

24 (9) A foreign corporation, except that Section 367 of the Internal
25 Revenue Code shall be applicable.

26 (10) Federal tax credits and carryovers of federal tax credits.

27 (11) Nonresident aliens.

28 (12) Deduction for personal exemptions, as provided in Section
29 151 of the Internal Revenue Code.

30 (13) The tax on generation-skipping transfers imposed by
31 Section 2601 of the Internal Revenue Code.

32 (14) The tax, relating to estates, imposed by Section 2001 or
33 2101 of the Internal Revenue Code.

34 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
35 and Section 172 of the Tax Reform Act of 1984 (Public Law
36 98-369), relating to treatment of debt instruments, is not applicable
37 for taxable years beginning before January 1, 1987.

38 (2) The provisions contained in Public Law 99-121, relating to
39 the treatment of debt instruments, is not applicable for taxable
40 years beginning before January 1, 1987.

1 (3) For each taxable year beginning on or after January 1, 1987,
2 the provisions referred to by paragraphs (1) and (2) shall be
3 applicable for purposes of this part in the same manner and with
4 respect to the same obligations as the federal provisions, except
5 as otherwise provided in this part.

6 (d) When applying the Internal Revenue Code for purposes of
7 this part, regulations promulgated in final form or issued as
8 temporary regulations by “the secretary” shall be applicable as
9 regulations under this part to the extent that they do not conflict
10 with this part or with regulations issued by the Franchise Tax
11 Board.

12 (e) Whenever this part allows a taxpayer to make an election,
13 the following rules shall apply:

14 (1) A proper election filed with the Internal Revenue Service
15 in accordance with the Internal Revenue Code or regulations issued
16 by “the secretary” shall be deemed to be a proper election for
17 purposes of this part, unless otherwise provided in this part or in
18 regulations issued by the Franchise Tax Board.

19 (2) A copy of that election shall be furnished to the Franchise
20 Tax Board upon request.

21 (3) (A) Except as provided in subparagraph (B), in order to
22 obtain treatment other than that elected for federal purposes, a
23 separate election shall be filed at the time and in the manner
24 required by the Franchise Tax Board.

25 (B) (i) If a taxpayer makes a proper election for federal income
26 tax purposes prior to the time that taxpayer becomes subject to the
27 tax imposed under this part or Part 11 (commencing with Section
28 23001), that taxpayer is deemed to have made the same election
29 for purposes of the tax imposed by this part, Part 10.2 (commencing
30 with Section 18401), and Part 11 (commencing with Section
31 23001), as applicable, and that taxpayer may not make a separate
32 election for California tax purposes unless that separate election
33 is expressly authorized by this part, Part 10.2 (commencing with
34 Section 18401), or Part 11 (commencing with Section 23001), or
35 by regulations issued by the Franchise Tax Board.

36 (ii) If a taxpayer has not made a proper election for federal
37 income tax purposes prior to the time that taxpayer becomes subject
38 to tax under this part or Part 11 (commencing with Section 23001),
39 that taxpayer may not make a separate California election for
40 purposes of this part, Part 10.2 (commencing with Section 18401),

1 or Part 11 (commencing with Section 23001), unless that separate
2 election is expressly authorized by this part, Part 10.2 (commencing
3 with Section 18401), or Part 11 (commencing with Section 23001),
4 or by regulations issued by the Franchise Tax Board.

5 (iii) This subparagraph applies only to the extent that the
6 provisions of the Internal Revenue Code or the regulation issued
7 by “the secretary” authorizing an election for federal income tax
8 purposes apply for purposes of this part, Part 10.2 (commencing
9 with Section 18401) or Part 11 (commencing with Section 23001).

10 (f) Whenever this part allows or requires a taxpayer to file an
11 application or seek consent, the rules set forth in subdivision (e)
12 shall be applicable with respect to that application or consent.

13 (g) When applying the Internal Revenue Code for purposes of
14 determining the statute of limitations under this part, any reference
15 to a period of three years shall be modified to read four years for
16 purposes of this part.

17 (h) When applying, for purposes of this part, any section of the
18 Internal Revenue Code or any applicable regulation thereunder,
19 all of the following shall apply:

20 (1) References to “adjusted gross income” shall mean the
21 amount computed in accordance with Section 17072, except as
22 provided in paragraph (2).

23 (2) (A) Except as provided in subparagraph (B), references to
24 “adjusted gross income” for purposes of computing limitations
25 based upon adjusted gross income, shall mean the amount required
26 to be shown as adjusted gross income on the federal tax return for
27 the same taxable year.

28 (B) In the case of registered domestic partners and former
29 registered domestic partners, adjusted gross income, for the
30 purposes of computing limitations based upon adjusted gross
31 income, shall mean the adjusted gross income on a federal tax
32 return computed as if the registered domestic partner or former
33 registered domestic partner was treated as a spouse or former
34 spouse, respectively, for federal income tax purposes, and used
35 the same filing status that was used on the state tax return for the
36 same taxable year.

37 (3) Any reference to “subtitle” or “chapter” shall mean this part.

38 (4) The provisions of Section 7806 of the Internal Revenue
39 Code, relating to construction of title, shall apply.

1 (5) Any provision of the Internal Revenue Code that becomes
2 operative on or after the specified date for that taxable year shall
3 become operative on the same date for purposes of this part.

4 (6) Any provision of the Internal Revenue Code that becomes
5 inoperative on or after the specified date for that taxable year shall
6 become inoperative on the same date for purposes of this part.

7 (7) Due account shall be made for differences in federal and
8 state terminology, effective dates, substitution of “Franchise Tax
9 Board” for “secretary” when appropriate, and other obvious
10 differences.

11 (8) Except as otherwise provided, any reference to Section 501
12 of the Internal Revenue Code shall be interpreted to also refer to
13 Section 23701.

14 (i) Any reference to a specific provision of the Internal Revenue
15 Code shall include modifications of that provision, if any, in this
16 part.

17 SEC. 2. Section 17053.46 of the Revenue and Taxation Code
18 is amended to read:

19 17053.46. (a) For each taxable year beginning on or after
20 January 1, 1995, there shall be allowed as a credit against the “net
21 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
22 a qualified disadvantaged individual or a qualified displaced
23 employee during the taxable year for employment in the LAMBRA.
24 The credit shall be equal to the sum of each of the following:

25 (1) Fifty percent of the qualified wages in the first year of
26 employment.

27 (2) Forty percent of the qualified wages in the second year of
28 employment.

29 (3) Thirty percent of the qualified wages in the third year of
30 employment.

31 (4) Twenty percent of the qualified wages in the fourth year of
32 employment.

33 (5) Ten percent of the qualified wages in the fifth year of
34 employment.

35 (b) For purposes of this section:

36 (1) “Qualified wages” means:

37 (A) That portion of wages paid or incurred by the employer
38 during the taxable year to qualified disadvantaged individuals or
39 qualified displaced employees that does not exceed 150 percent
40 of the minimum wage.

1 (B) The total amount of qualified wages which may be taken
2 into account for purposes of claiming the credit allowed under this
3 section shall not exceed two million dollars (\$2,000,000) per
4 taxable year.

5 (C) Wages received during the 60-month period beginning with
6 the first day the individual commences employment with the
7 taxpayer. Reemployment in connection with any increase, including
8 a regularly occurring seasonal increase, in the trade or business
9 operations of the qualified taxpayer does not constitute
10 commencement of employment for purposes of this section.

11 (D) Qualified wages do not include any wages paid or incurred
12 by the qualified taxpayer on or after the LAMBRA expiration date.
13 However, wages paid or incurred with respect to qualified
14 disadvantaged individuals or qualified displaced employees who
15 are employed by the qualified taxpayer within the LAMBRA within
16 the 60-month period prior to the LAMBRA expiration date shall
17 continue to qualify for the credit under this section after the
18 LAMBRA expiration date, in accordance with all provisions of
19 this section applied as if the LAMBRA designation were still in
20 existence and binding.

21 (2) "Minimum wage" means the wage established by the
22 Industrial Welfare Commission as provided for in Chapter 1
23 (commencing with Section 1171) of Part 4 of Division 2 of the
24 Labor Code.

25 (3) "LAMBRA" means a local agency military base recovery
26 area designated in accordance with Section 7114 of the Government
27 Code.

28 (4) "Qualified disadvantaged individual" means an individual
29 who satisfies all of the following requirements:

30 (A) (i) At least 90 percent of whose services for the taxpayer
31 during the taxable year are directly related to the conduct of the
32 taxpayer's trade or business located in a LAMBRA.

33 (ii) Who performs at least 50 percent of his or her services for
34 the taxpayer during the taxable year in the LAMBRA.

35 (B) Who is hired by the employer after the designation of the
36 area as a LAMBRA in which the individual's services were
37 primarily performed.

38 (C) Who is any of the following immediately preceding the
39 individual's commencement of employment with the taxpayer:

1 (i) An individual who has been determined eligible for services
2 under the federal Job Training Partnership Act (29 U.S.C. Sec.
3 1501 et seq.).

4 (ii) Any voluntary or mandatory registrant under the Greater
5 Avenues for Independence Act of 1985 as provided pursuant to
6 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
7 3 of Division 9 of the Welfare and Institutions Code.

8 (iii) An economically disadvantaged individual age 16 years or
9 older.

10 (iv) A dislocated worker who meets any of the following
11 conditions:

12 (I) Has been terminated or laid off or who has received a notice
13 of termination or layoff from employment, is eligible for or has
14 exhausted entitlement to unemployment insurance benefits, and
15 is unlikely to return to his or her previous industry or occupation.

16 (II) Has been terminated or has received a notice of termination
17 of employment as a result of any permanent closure or any
18 substantial layoff at a plant, facility, or enterprise, including an
19 individual who has not received written notification but whose
20 employer has made a public announcement of the closure or layoff.

21 (III) Is long-term unemployed and has limited opportunities for
22 employment or reemployment in the same or a similar occupation
23 in the area in which the individual resides, including an individual
24 55 years of age or older who may have substantial barriers to
25 employment by reason of age.

26 (IV) Was self-employed (including farmers and ranchers) and
27 is unemployed as a result of general economic conditions in the
28 community in which he or she resides or because of natural
29 disasters.

30 (V) Was a civilian employee of the Department of Defense
31 employed at a military installation being closed or realigned under
32 the Defense Base Closure and Realignment Act of 1990.

33 (VI) Was an active member of the Armed Forces or National
34 Guard as of September 30, 1990, and was either involuntarily
35 separated or separated pursuant to a special benefits program.

36 (VII) Experiences chronic seasonal unemployment and
37 underemployment in the agriculture industry, aggravated by
38 continual advancements in technology and mechanization.

1 (VIII) Has been terminated or laid off or has received a notice
2 of termination or layoff as a consequence of compliance with the
3 Clean Air Act.

4 (v) An individual who is enrolled in or has completed a state
5 rehabilitation plan or is a service-connected disabled veteran,
6 veteran of the Vietnam era, or veteran who is recently separated
7 from military service.

8 (vi) An ex-offender. An individual shall be treated as convicted
9 if he or she was placed on probation by a state court without a
10 finding of guilty.

11 (vii) A recipient of:

12 (I) Federal Supplemental Security Income benefits.

13 (II) Aid to Families with Dependent Children.

14 (III) CalFresh benefits.

15 (IV) State and local general assistance.

16 (viii) Is a member of a federally recognized Indian tribe, band,
17 or other group of Native American descent.

18 (5) "Qualified taxpayer" means a taxpayer or partnership that
19 conducts a trade or business within a LAMBRA and, for the first
20 two taxable years, has a net increase in jobs (defined as 2,000 paid
21 hours per employee per year) of one or more employees in the
22 LAMBRA.

23 (A) The net increase in the number of jobs shall be determined
24 by subtracting the total number of full-time employees (defined
25 as 2,000 paid hours per employee per year) the taxpayer employed
26 in this state in the taxable year prior to commencing business
27 operations in the LAMBRA from the total number of full-time
28 employees the taxpayer employed in this state during the second
29 taxable year after commencing business operations in the
30 LAMBRA. For taxpayers who commence doing business in this
31 state with their LAMBRA business operation, the number of
32 employees for the taxable year prior to commencing business
33 operations in the LAMBRA shall be zero. If the taxpayer has a net
34 increase in jobs in the state, the credit shall be allowed only if one
35 or more full-time employees is employed within the LAMBRA.

36 (B) The total number of employees employed in the LAMBRA
37 shall equal the sum of both of the following:

38 (i) The total number of hours worked in the LAMBRA for the
39 taxpayer by employees (not to exceed 2,000 hours per employee)
40 who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) “Qualified displaced employee” means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) “LAMBRA expiration date” means the date the LAMBRA designation expires, is no longer binding, becomes inoperative, or is repealed.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the LAMBRA, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying

1 agency. The Department of Housing and Community Development
2 shall develop regulations governing the issuance of certificates
3 pursuant to Section 7114.2 of the Government Code and shall
4 develop forms for this purpose.

5 (2) Retain a copy of the certification and provide it upon request
6 to the Franchise Tax Board.

7 (d) (1) For purposes of this section, both of the following apply:

8 (A) All employees of trades or businesses that are under
9 common control shall be treated as employed by a single employer.

10 (B) The credit (if any) allowable by this section with respect to
11 each trade or business shall be determined by reference to its
12 proportionate share of the qualified wages giving rise to the credit.

13 The regulations prescribed under this paragraph shall be based
14 on principles similar to the principles that apply in the case of
15 controlled groups of corporations as specified in subdivision (e)
16 of Section 23622.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (d)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 an employee and an employer shall not be treated as terminated if
24 the employee continues to be employed in that trade or business.

25 (e) (1) (A) If the employment, other than seasonal employment,
26 of any employee, with respect to whom qualified wages are taken
27 into account under subdivision (a), is terminated by the taxpayer
28 at any time during the first 270 days of that employment (whether
29 or not consecutive) or before the close of the 270th calendar day
30 after the day in which that employee completes 90 days of
31 employment with the taxpayer, the tax imposed by this part for
32 the taxable year in which that employment is terminated shall be
33 increased by an amount (determined under those regulations) equal
34 to the credit allowed under subdivision (a) for that taxable year
35 and all prior taxable years attributable to qualified wages paid or
36 incurred with respect to that employee.

37 (B) If the seasonal employment of any qualified disadvantaged
38 individual, with respect to whom qualified wages are taken into
39 account under subdivision (a), is not continued by the qualified
40 taxpayer for a period of 270 days of employment during the

1 60-month period beginning with the day the qualified
2 disadvantaged individual commences seasonal employment with
3 the qualified taxpayer, the tax imposed by this part, for the taxable
4 year that includes the 60th month following the month in which
5 the qualified disadvantaged individual commences seasonal
6 employment with the qualified taxpayer, shall be increased by an
7 amount equal to the credit allowed under subdivision (a) for that
8 taxable year and all prior taxable years attributable to qualified
9 wages paid or incurred with respect to that qualified disadvantaged
10 individual.

11 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
12 any of the following:

13 (i) A termination of employment of an employee who voluntarily
14 leaves the employment of the taxpayer.

15 (ii) A termination of employment of an individual who, before
16 the close of the period referred to in subparagraph (A) of paragraph
17 (1), becomes disabled to perform the services of that employment,
18 unless that disability is removed before the close of that period
19 and the taxpayer fails to offer reemployment to that individual.

20 (iii) A termination of employment of an individual, if it is
21 determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that individual.

24 (iv) A termination of employment of an individual due to a
25 substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of an individual, if that
28 individual is replaced by other qualified employees so as to create
29 a net increase in both the number of employees and the hours of
30 employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 disadvantaged individual who voluntarily fails to return to the
35 seasonal employment of the qualified taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 disadvantaged individual who, before the close of the period
38 referred to in subparagraph (B) of paragraph (1), becomes disabled
39 and unable to perform the services of that seasonal employment,
40 unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to
2 that individual.

3 (iii) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual, if it is determined that the failure to
5 continue the seasonal employment was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that qualified disadvantaged
8 individual.

9 (iv) A failure to continue seasonal employment of a qualified
10 disadvantaged individual due to a substantial reduction in the
11 regular seasonal trade or business operations of the qualified
12 taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if that individual is replaced by other
15 qualified displaced employees so as to create a net increase in both
16 the number of seasonal employees and the hours of seasonal
17 employment.

18 (C) For purposes of paragraph (1), the employment relationship
19 between the taxpayer and an employee shall not be treated as
20 terminated by reason of a mere change in the form of conducting
21 the trade or business of the taxpayer, if the employee continues to
22 be employed in that trade or business and the taxpayer retains a
23 substantial interest in that trade or business.

24 (3) Any increase in tax under paragraph (1) shall not be treated
25 as tax imposed by this part for purposes of determining the amount
26 of any credit allowable under this part.

27 (4) At the close of the second taxable year, if the taxpayer has
28 not increased the number of its employees as determined by
29 paragraph (5) of subdivision (b), then the amount of the credit
30 previously claimed shall be added to the taxpayer's net tax for the
31 taxpayer's second taxable year.

32 (f) In the case of an estate or trust, both of the following apply:

33 (1) The qualified wages for any taxable year shall be apportioned
34 between the estate or trust and the beneficiaries on the basis of the
35 income of the estate or trust allocable to each.

36 (2) Any beneficiary to whom any qualified wages have been
37 apportioned under paragraph (1) shall be treated (for purposes of
38 this part) as the employer with respect to those wages.

39 (g) The credit shall be reduced by the credit allowed under
40 Section 17053.7. The credit shall also be reduced by the federal

1 credit allowed under Section 51 of the Internal Revenue Code, as
2 amended by the Emergency Economic Stabilization Act of 2008
3 (Public Law 110-343).

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the taxpayer upon which
6 the credit is based shall be reduced by the amount of the credit,
7 prior to any reduction required by subdivision (h) or (i).

8 (h) In the case where the credit otherwise allowed under this
9 section exceeds the “net tax” for the taxable year, that portion of
10 the credit that exceeds the “net tax” may be carried over and added
11 to the credit, if any, in the succeeding 10 taxable years, if necessary,
12 until the credit is exhausted. The credit shall be applied first to the
13 earliest taxable years possible.

14 (i) (1) The amount of credit otherwise allowed under this section
15 and Section 17053.45, including prior year credit carryovers, that
16 may reduce the “net tax” for the taxable year shall not exceed the
17 amount of tax that would be imposed on the taxpayer’s business
18 income attributed to a LAMBRA determined as if that attributed
19 income represented all of the net income of the taxpayer subject
20 to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 LAMBRA. For that purpose, the taxpayer’s business income that
24 is attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101) of
26 Part 11. That business income shall be further apportioned to the
27 LAMBRA in accordance with Article 2 (commencing with Section
28 25120) of Chapter 17 of Part 11, modified for purposes of this
29 section in accordance with paragraph (3).

30 (3) Income shall be apportioned to a LAMBRA by multiplying
31 the total California business income of the taxpayer by a fraction,
32 the numerator of which is the property factor plus the payroll factor,
33 and the denominator of which is two. For purposes of this
34 paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the LAMBRA during the
38 taxable year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the LAMBRA during the
3 taxable year for compensation, and the denominator of which is
4 the total compensation paid by the taxpayer in this state during the
5 taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, if necessary, until the credit is exhausted, as if it were an
9 amount exceeding the “net tax” for the taxable year, as provided
10 in subdivision (h). However, the portion of any credit remaining
11 for carryover to taxable years beginning on or after January 1,
12 2014, if any, after application of this subdivision, shall be carried
13 over only to the succeeding 10 taxable years if necessary, until the
14 credit is exhausted, as if it were an amount exceeding the “net tax”
15 for the taxable year, as provided in subdivision (h).

16 (j) If the taxpayer is allowed a credit pursuant to this section for
17 qualified wages paid or incurred, only one credit shall be allowed
18 to the taxpayer under this part with respect to any wage consisting
19 in whole or in part of those qualified wages.

20 (k) (1) Except as provided in paragraph (2), this section shall
21 cease to be operative on January 1, 2014, and shall be repealed on
22 December 1, 2019. A credit shall not be allowed under this section
23 with respect to an employee who first commences employment
24 with a qualified taxpayer on or after January 1, 2014.

25 (2) This section shall continue to apply with respect to qualified
26 disadvantaged individuals or qualified displaced employees who
27 are employed by the qualified taxpayer within the LAMBRA within
28 the 60-month period immediately preceding January 1, 2014, and
29 qualified wages paid or incurred with respect to those qualified
30 disadvantaged individuals or qualified displaced employees shall
31 continue to qualify for the credit under this section for taxable
32 years beginning on or after January 1, 2014, in accordance with
33 this section, as amended by the act adding this subdivision.

34 SEC. 3. Section 17053.47 of the Revenue and Taxation Code
35 is amended to read:

36 17053.47. (a) For each taxable year beginning on or after
37 January 1, 1998, there shall be allowed a credit against the “net
38 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
39 a qualified disadvantaged individual during the taxable year for

1 employment in the manufacturing enhancement area. The credit
2 shall be equal to the sum of each of the following:

3 (1) Fifty percent of the qualified wages in the first year of
4 employment.

5 (2) Forty percent of the qualified wages in the second year of
6 employment.

7 (3) Thirty percent of the qualified wages in the third year of
8 employment.

9 (4) Twenty percent of the qualified wages in the fourth year of
10 employment.

11 (5) Ten percent of the qualified wages in the fifth year of
12 employment.

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

15 (A) That portion of wages paid or incurred by the qualified
16 taxpayer during the taxable year to qualified disadvantaged
17 individuals that does not exceed 150 percent of the minimum wage.

18 (B) The total amount of qualified wages which may be taken
19 into account for purposes of claiming the credit allowed under this
20 section shall not exceed two million dollars (\$2,000,000) per
21 taxable year.

22 (C) Wages received during the 60-month period beginning with
23 the first day the qualified disadvantaged individual commences
24 employment with the qualified taxpayer. Reemployment in
25 connection with any increase, including a regularly occurring
26 seasonal increase, in the trade or business operations of the taxpayer
27 does not constitute commencement of employment for purposes
28 of this section.

29 (D) Qualified wages do not include any wages paid or incurred
30 by the qualified taxpayer on or after the manufacturing
31 enhancement area expiration date. However, wages paid or incurred
32 with respect to qualified employees who are employed by the
33 qualified taxpayer within the manufacturing enhancement area
34 within the 60-month period prior to the manufacturing enhancement
35 area expiration date shall continue to qualify for the credit under
36 this section after the manufacturing enhancement area expiration
37 date, in accordance with all provisions of this section applied as
38 if the manufacturing enhancement area designation were still in
39 existence and binding.

1 (2) “Minimum wage” means the wage established by the
2 Industrial Welfare Commission as provided for in Chapter 1
3 (commencing with Section 1171) of Part 4 of Division 2 of the
4 Labor Code.

5 (3) “Manufacturing enhancement area” means an area designated
6 pursuant to Section 7073.8 of the Government Code according to
7 the procedures of Chapter 12.8 (commencing with Section 7070)
8 of Division 7 of Title 1 of the Government Code.

9 (4) “Manufacturing enhancement area expiration date” means
10 the date the manufacturing enhancement area designation expires,
11 is no longer binding, becomes inoperative, or is repealed.

12 (5) “Qualified disadvantaged individual” means an individual
13 who satisfies all of the following requirements:

14 (A) (i) At least 90 percent of whose services for the qualified
15 taxpayer during the taxable year are directly related to the conduct
16 of the qualified taxpayer’s trade or business located in a
17 manufacturing enhancement area.

18 (ii) Who performs at least 50 percent of his or her services for
19 the qualified taxpayer during the taxable year in the manufacturing
20 enhancement area.

21 (B) Who is hired by the qualified taxpayer after the designation
22 of the area as a manufacturing enhancement area in which the
23 individual’s services were primarily performed.

24 (C) Who is any of the following immediately preceding the
25 individual’s commencement of employment with the qualified
26 taxpayer:

27 (i) An individual who has been determined eligible for services
28 under the federal Job Training Partnership Act (29 U.S.C. Sec.
29 1501 et seq.), or its successor.

30 (ii) Any voluntary or mandatory registrant under the Greater
31 Avenues for Independence Act of 1985, or its successor, as
32 provided pursuant to Article 3.2 (commencing with Section 11320)
33 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
34 Code.

35 (iii) Any individual who has been certified eligible by the
36 Employment Development Department under the federal Targeted
37 Jobs Tax Credit Program, or its successor, whether or not this
38 program is in effect.

39 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
40 or business within a manufacturing enhancement area designated

1 pursuant to Section 7073.8 of the Government Code and who meets
2 all of the following requirements:

3 (A) Is engaged in those lines of business described in Codes
4 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
5 inclusive, of the Standard Industrial Classification (SIC) Manual
6 published by the United States Office of Management and Budget,
7 1987 edition.

8 (B) At least 50 percent of the qualified taxpayer's workforce
9 hired after the designation of the manufacturing enhancement area
10 is composed of individuals who, at the time of hire, are residents
11 of the county in which the manufacturing enhancement area is
12 located.

13 (C) Of this percentage of local hires, at least 30 percent shall
14 be qualified disadvantaged individuals.

15 (7) "Seasonal employment" means employment by a qualified
16 taxpayer that has regular and predictable substantial reductions in
17 trade or business operations.

18 (c) (1) For purposes of this section, all of the following apply:

19 (A) All employees of trades or businesses that are under
20 common control shall be treated as employed by a single qualified
21 taxpayer.

22 (B) The credit (if any) allowable by this section with respect to
23 each trade or business shall be determined by reference to its
24 proportionate share of the expense of the qualified wages giving
25 rise to the credit and shall be allocated in that manner.

26 (C) Principles that apply in the case of controlled groups of
27 corporations, as specified in subdivision (d) of Section 23622.7,
28 shall apply with respect to determining employment.

29 (2) If a qualified taxpayer acquires the major portion of a trade
30 or business of another employer (hereinafter in this paragraph
31 referred to as the "predecessor") or the major portion of a separate
32 unit of a trade or business of a predecessor, then, for purposes of
33 applying this section (other than subdivision (d)) for any calendar
34 year ending after that acquisition, the employment relationship
35 between a qualified disadvantaged individual and a qualified
36 taxpayer shall not be treated as terminated if the qualified
37 disadvantaged individual continues to be employed in that trade
38 or business.

39 (d) (1) (A) If the employment, other than seasonal employment,
40 of any qualified disadvantaged individual, with respect to whom

1 qualified wages are taken into account under subdivision (b) is
2 terminated by the qualified taxpayer at any time during the first
3 270 days of that employment (whether or not consecutive) or before
4 the close of the 270th calendar day after the day in which that
5 qualified disadvantaged individual completes 90 days of
6 employment with the qualified taxpayer, the tax imposed by this
7 part for the taxable year in which that employment is terminated
8 shall be increased by an amount equal to the credit allowed under
9 subdivision (a) for that taxable year and all prior taxable years
10 attributable to qualified wages paid or incurred with respect to that
11 qualified disadvantaged individual.

12 (B) If the seasonal employment of any qualified disadvantaged
13 individual, with respect to whom qualified wages are taken into
14 account under subdivision (a) is not continued by the qualified
15 taxpayer for a period of 270 days of employment during the
16 60-month period beginning with the day the qualified
17 disadvantaged individual commences seasonal employment with
18 the qualified taxpayer, the tax imposed by this part, for the taxable
19 year that includes the 60th month following the month in which
20 the qualified disadvantaged individual commences seasonal
21 employment with the qualified taxpayer, shall be increased by an
22 amount equal to the credit allowed under subdivision (a) for that
23 taxable year and all prior taxable years attributable to qualified
24 wages paid or incurred with respect to that qualified disadvantaged
25 individual.

26 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
27 any of the following:

28 (i) A termination of employment of a qualified disadvantaged
29 individual who voluntarily leaves the employment of the qualified
30 taxpayer.

31 (ii) A termination of employment of a qualified disadvantaged
32 individual who, before the close of the period referred to in
33 subparagraph (A) of paragraph (1), becomes disabled to perform
34 the services of that employment, unless that disability is removed
35 before the close of that period and the taxpayer fails to offer
36 reemployment to that individual.

37 (iii) A termination of employment of a qualified disadvantaged
38 individual, if it is determined that the termination was due to the
39 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
40 of Title 22 of the California Code of Regulations) of that individual.

1 (iv) A termination of employment of a qualified disadvantaged
2 individual due to a substantial reduction in the trade or business
3 operations of the qualified taxpayer.

4 (v) A termination of employment of a qualified disadvantaged
5 individual, if that individual is replaced by other qualified
6 disadvantaged individuals so as to create a net increase in both the
7 number of employees and the hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who voluntarily fails to return to the
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual who, before the close of the period
15 referred to in subparagraph (B) of paragraph (1), becomes disabled
16 and unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the qualified taxpayer fails to offer seasonal employment to
19 that qualified disadvantaged individual.

20 (iii) A failure to continue the seasonal employment of a qualified
21 disadvantaged individual, if it is determined that the failure to
22 continue the seasonal employment was due to the misconduct (as
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
24 the California Code of Regulations) of that qualified disadvantaged
25 individual.

26 (iv) A failure to continue seasonal employment of a qualified
27 disadvantaged individual due to a substantial reduction in the
28 regular seasonal trade or business operations of the qualified
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a qualified
31 disadvantaged individual, if that qualified disadvantaged individual
32 is replaced by other qualified disadvantaged individuals so as to
33 create a net increase in both the number of seasonal employees
34 and the hours of seasonal employment.

35 (C) For purposes of paragraph (1), the employment relationship
36 between the qualified taxpayer and a qualified disadvantaged
37 individual shall not be treated as terminated by reason of a mere
38 change in the form of conducting the trade or business of the
39 qualified taxpayer, if the qualified disadvantaged individual

1 continues to be employed in that trade or business and the qualified
2 taxpayer retains a substantial interest in that trade or business.

3 (3) Any increase in tax under paragraph (1) shall not be treated
4 as tax imposed by this part for purposes of determining the amount
5 of any credit allowable under this part.

6 (e) In the case of an estate or trust, both of the following apply:

7 (1) The qualified wages for any taxable year shall be apportioned
8 between the estate or trust and the beneficiaries on the basis of the
9 income of the estate or trust allocable to each.

10 (2) Any beneficiary to whom any qualified wages have been
11 apportioned under paragraph (1) shall be treated (for purposes of
12 this part) as the employer with respect to those wages.

13 (f) The credit shall be reduced by the credit allowed under
14 Section 17053.7. The credit shall also be reduced by the federal
15 credit allowed under Section 51 of the Internal Revenue Code, as
16 amended by the Emergency Economic Stabilization Act of 2008
17 (Public Law 110-343).

18 In addition, any deduction otherwise allowed under this part for
19 the wages or salaries paid or incurred by the qualified taxpayer
20 upon which the credit is based shall be reduced by the amount of
21 the credit, prior to any reduction required by subdivision (g) or
22 (h).

23 (g) In the case where the credit otherwise allowed under this
24 section exceeds the “net tax” for the taxable year, that portion of
25 the credit that exceeds the “net tax” may be carried over and added
26 to the credit, if any, in the succeeding 10 taxable years, if necessary,
27 until the credit is exhausted. The credit shall be applied first to the
28 earliest taxable years possible.

29 (h) (1) The amount of credit otherwise allowed under this
30 section, including prior year credit carryovers, that may reduce
31 the “net tax” for the taxable year shall not exceed the amount of
32 tax that would be imposed on the qualified taxpayer’s business
33 income attributed to a manufacturing enhancement area determined
34 as if that attributed income represented all of the net income of the
35 qualified taxpayer subject to tax under this part.

36 (2) Attributable income shall be that portion of the taxpayer’s
37 California source business income that is apportioned to the
38 manufacturing enhancement area. For that purpose, the taxpayer’s
39 business income that is attributable to sources in this state first
40 shall be determined in accordance with Chapter 17 (commencing

1 with Section 25101) of Part 11. That business income shall be
2 further apportioned to the manufacturing enhancement area in
3 accordance with Article 2 (commencing with Section 25120) of
4 Chapter 17 of Part 11, modified for purposes of this section in
5 accordance with paragraph (3).

6 (3) Income shall be apportioned to a manufacturing enhancement
7 area by multiplying the total California business income of the
8 taxpayer by a fraction, the numerator of which is the property
9 factor plus the payroll factor, and the denominator of which is two.

10 For purposes of this paragraph:

11 (A) The property factor is a fraction, the numerator of which is
12 the average value of the taxpayer's real and tangible personal
13 property owned or rented and used in the manufacturing
14 enhancement area during the taxable year, and the denominator
15 of which is the average value of all the taxpayer's real and tangible
16 personal property owned or rented and used in this state during
17 the taxable year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the manufacturing
20 enhancement area during the taxable year for compensation, and
21 the denominator of which is the total compensation paid by the
22 taxpayer in this state during the taxable year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, if necessary, until the credit is exhausted, as if it were an
26 amount exceeding the "net tax" for the taxable year, as provided
27 in subdivision (g). However, the portion of any credit remaining
28 for carryover to taxable years beginning on or after January 1,
29 2014, if any, after application of this subdivision, shall be carried
30 over only to the succeeding 10 taxable years if necessary, until the
31 credit is exhausted, as if it were an amount exceeding the "net tax"
32 for the taxable year, as provided in subdivision (g).

33 (i) If the taxpayer is allowed a credit pursuant to this section for
34 qualified wages paid or incurred, only one credit shall be allowed
35 to the taxpayer under this part with respect to any wage consisting
36 in whole or in part of those qualified wages.

37 (j) The qualified taxpayer shall do both of the following:

38 (1) Obtain from the Employment Development Department, as
39 permitted by federal law, the local county or city Job Training
40 Partnership Act administrative entity, the local county GAIN office

1 or social services agency, or the local government administering
2 the manufacturing enhancement area, a certification that provides
3 that a qualified disadvantaged individual meets the eligibility
4 requirements specified in paragraph (5) of subdivision (b). The
5 Employment Development Department may provide preliminary
6 screening and referral to a certifying agency. The Department of
7 Housing and Community Development shall develop regulations
8 governing the issuance of certificates pursuant to subdivision (d)
9 of Section 7086 of the Government Code and shall develop forms
10 for this purpose.

11 (2) Retain a copy of the certification and provide it upon request
12 to the Franchise Tax Board.

13 (k) (1) Except as provided in paragraph (2), this section shall
14 cease to be operative for taxable years beginning on or after January
15 1, 2014, and shall be repealed on December 1, 2019.

16 (2) The section shall continue to apply with respect to qualified
17 employees who are employed by the qualified taxpayer within the
18 manufacturing enhancement area within the 60-month period
19 immediately preceding January 1, 2014, and qualified wages paid
20 or incurred with respect to those qualified employees shall continue
21 to qualify for the credit under this section for taxable years
22 beginning on or after January 1, 2014, in accordance with the
23 provisions of this section, as amended by the act adding this
24 subdivision.

25 SEC. 4. Section 17053.74 of the Revenue and Taxation Code
26 is amended to read:

27 17053.74. (a) There shall be allowed a credit against the “net
28 tax” (as defined in Section 17039) to a taxpayer who employs a
29 qualified employee in an enterprise zone during the taxable year.
30 The credit shall be equal to the sum of each of the following:

31 (1) Fifty percent of qualified wages in the first year of
32 employment.

33 (2) Forty percent of qualified wages in the second year of
34 employment.

35 (3) Thirty percent of qualified wages in the third year of
36 employment.

37 (4) Twenty percent of qualified wages in the fourth year of
38 employment.

39 (5) Ten percent of qualified wages in the fifth year of
40 employment.

1 (b) For purposes of this section:

2 (1) “Qualified wages” means:

3 (A) (i) Except as provided in clause (ii), that portion of wages
4 paid or incurred by the taxpayer during the taxable year to qualified
5 employees that does not exceed 150 percent of the minimum wage.

6 (ii) For up to 1,350 qualified employees who are employed by
7 the taxpayer in the Long Beach Enterprise Zone in aircraft
8 manufacturing activities described in Codes 3721 to 3728,
9 inclusive, and Code 3812 of the Standard Industrial Classification
10 (SIC) Manual published by the United States Office of
11 Management and Budget, 1987 edition, “qualified wages” means
12 that portion of hourly wages that does not exceed 202 percent of
13 the minimum wage.

14 (B) Wages received during the 60-month period beginning with
15 the first day the employee commences employment with the
16 taxpayer. Reemployment in connection with any increase, including
17 a regularly occurring seasonal increase, in the trade or business
18 operations of the taxpayer does not constitute commencement of
19 employment for purposes of this section.

20 (C) Qualified wages do not include any wages paid or incurred
21 by the taxpayer on or after the zone expiration date. However,
22 wages paid or incurred with respect to qualified employees who
23 are employed by the taxpayer within the enterprise zone within
24 the 60-month period prior to the zone expiration date shall continue
25 to qualify for the credit under this section after the zone expiration
26 date, in accordance with all provisions of this section applied as
27 if the enterprise zone designation were still in existence and
28 binding.

29 (2) “Minimum wage” means the wage established by the
30 Industrial Welfare Commission as provided for in Chapter 1
31 (commencing with Section 1171) of Part 4 of Division 2 of the
32 Labor Code.

33 (3) “Zone expiration date” means the date the enterprise zone
34 designation expires, is no longer binding, becomes inoperative, or
35 is repealed.

36 (4) (A) “Qualified employee” means an individual who meets
37 all of the following requirements:

38 (i) At least 90 percent of whose services for the taxpayer during
39 the taxable year are directly related to the conduct of the taxpayer’s
40 trade or business located in an enterprise zone.

1 (ii) Performs at least 50 percent of his or her services for the
2 taxpayer during the taxable year in an enterprise zone.

3 (iii) Is hired by the taxpayer after the date of original designation
4 of the area in which services were performed as an enterprise zone.

5 (iv) Is any of the following:

6 (I) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a person
8 eligible for services under the federal Job Training Partnership
9 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
10 or is eligible to receive, subsidized employment, training, or
11 services funded by the federal Job Training Partnership Act, or its
12 successor.

13 (II) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a person
15 eligible to be a voluntary or mandatory registrant under the Greater
16 Avenues for Independence Act of 1985 (GAIN) provided for
17 pursuant to Article 3.2 (commencing with Section 11320) of
18 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
19 Code, or its successor.

20 (III) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was an
22 economically disadvantaged individual 14 years of age or older.

23 (IV) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a dislocated
25 worker who meets any of the following:

26 (aa) Has been terminated or laid off or who has received a notice
27 of termination or layoff from employment, is eligible for or has
28 exhausted entitlement to unemployment insurance benefits, and
29 is unlikely to return to his or her previous industry or occupation.

30 (bb) Has been terminated or has received a notice of termination
31 of employment as a result of any permanent closure or any
32 substantial layoff at a plant, facility, or enterprise, including an
33 individual who has not received written notification but whose
34 employer has made a public announcement of the closure or layoff.

35 (cc) Is long-term unemployed and has limited opportunities for
36 employment or reemployment in the same or a similar occupation
37 in the area in which the individual resides, including an individual
38 55 years of age or older who may have substantial barriers to
39 employment by reason of age.

1 (dd) Was self-employed (including farmers and ranchers) and
2 is unemployed as a result of general economic conditions in the
3 community in which he or she resides or because of natural
4 disasters.

5 (ee) Was a civilian employee of the Department of Defense
6 employed at a military installation being closed or realigned under
7 the Defense Base Closure and Realignment Act of 1990.

8 (ff) Was an active member of the armed forces or National
9 Guard as of September 30, 1990, and was either involuntarily
10 separated or separated pursuant to a special benefits program.

11 (gg) Is a seasonal or migrant worker who experiences chronic
12 seasonal unemployment and underemployment in the agriculture
13 industry, aggravated by continual advancements in technology and
14 mechanization.

15 (hh) Has been terminated or laid off, or has received a notice
16 of termination or layoff, as a consequence of compliance with the
17 Clean Air Act.

18 (V) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a disabled
20 individual who is eligible for or enrolled in, or has completed a
21 state rehabilitation plan or is a service-connected disabled veteran,
22 veteran of the Vietnam era, or veteran who is recently separated
23 from military service.

24 (VI) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was an
26 ex-offender. An individual shall be treated as convicted if he or
27 she was placed on probation by a state court without a finding of
28 guilt.

29 (VII) Immediately preceding the qualified employee's
30 commencement of employment with the taxpayer, was a person
31 eligible for or a recipient of any of the following:

32 (aa) Federal Supplemental Security Income benefits.

33 (bb) Aid to Families with Dependent Children.

34 (cc) CalFresh benefits.

35 (dd) State and local general assistance.

36 (VIII) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a member
38 of a federally recognized Indian tribe, band, or other group of
39 Native American descent.

1 (IX) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a resident
3 of a targeted employment area, as defined in Section 7072 of the
4 Government Code.

5 (X) An employee who qualified the taxpayer for the enterprise
6 zone hiring credit under former Section 17053.8 or the program
7 area hiring credit under former Section 17053.11.

8 (XI) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a member
10 of a targeted group, as defined in Section 51(d) of the Internal
11 Revenue Code, or its successor.

12 (B) Priority for employment shall be provided to an individual
13 who is enrolled in a qualified program under the federal Job
14 Training Partnership Act or the Greater Avenues for Independence
15 Act of 1985 or who is eligible as a member of a targeted group
16 under the Work Opportunity Tax Credit (Section 51 of the Internal
17 Revenue Code), or its successor.

18 (5) "Taxpayer" means a person or entity engaged in a trade or
19 business within an enterprise zone designated pursuant to Chapter
20 12.8 (commencing with Section 7070) of the Government Code.

21 (6) "Seasonal employment" means employment by a taxpayer
22 that has regular and predictable substantial reductions in trade or
23 business operations.

24 (c) The taxpayer shall do both of the following:

25 (1) Obtain from the Employment Development Department, as
26 permitted by federal law, the local county or city Job Training
27 Partnership Act administrative entity, the local county GAIN office
28 or social services agency, or the local government administering
29 the enterprise zone, a certification which provides that a qualified
30 employee meets the eligibility requirements specified in clause
31 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
32 Employment Development Department may provide preliminary
33 screening and referral to a certifying agency. The Employment
34 Development Department shall develop a form for this purpose.
35 The Department of Housing and Community Development shall
36 develop regulations governing the issuance of certificates by local
37 governments pursuant to subdivision (a) of Section 7086 of the
38 Government Code.

39 (2) Retain a copy of the certification and provide it upon request
40 to the Franchise Tax Board.

1 (d) (1) For purposes of this section:

2 (A) All employees of trades or businesses, which are not
3 incorporated, that are under common control shall be treated as
4 employed by a single taxpayer.

5 (B) The credit, if any, allowable by this section with respect to
6 each trade or business shall be determined by reference to its
7 proportionate share of the expense of the qualified wages giving
8 rise to the credit, and shall be allocated in that manner.

9 (C) Principles that apply in the case of controlled groups of
10 corporations, as specified in subdivision (d) of Section 23622.7,
11 shall apply with respect to determining employment.

12 (2) If an employer acquires the major portion of a trade or
13 business of another employer (hereinafter in this paragraph referred
14 to as the “predecessor”) or the major portion of a separate unit of
15 a trade or business of a predecessor, then, for purposes of applying
16 this section (other than subdivision (e)) for any calendar year
17 ending after that acquisition, the employment relationship between
18 a qualified employee and an employer shall not be treated as
19 terminated if the employee continues to be employed in that trade
20 or business.

21 (e) (1) (A) If the employment, other than seasonal employment,
22 of any qualified employee, with respect to whom qualified wages
23 are taken into account under subdivision (a), is terminated by the
24 taxpayer at any time during the first 270 days of that employment
25 (whether or not consecutive) or before the close of the 270th
26 calendar day after the day in which that employee completes 90
27 days of employment with the taxpayer, the tax imposed by this
28 part for the taxable year in which that employment is terminated
29 shall be increased by an amount equal to the credit allowed under
30 subdivision (a) for that taxable year and all prior taxable years
31 attributable to qualified wages paid or incurred with respect to that
32 employee.

33 (B) If the seasonal employment of any qualified employee, with
34 respect to whom qualified wages are taken into account under
35 subdivision (a), is not continued by the taxpayer for a period of
36 270 days of employment during the 60-month period beginning
37 with the day the qualified employee commences seasonal
38 employment with the taxpayer, the tax imposed by this part, for
39 the taxable year that includes the 60th month following the month
40 in which the qualified employee commences seasonal employment

1 with the taxpayer, shall be increased by an amount equal to the
2 credit allowed under subdivision (a) for that taxable year and all
3 prior taxable years attributable to qualified wages paid or incurred
4 with respect to that qualified employee.

5 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
6 any of the following:

7 (i) A termination of employment of a qualified employee who
8 voluntarily leaves the employment of the taxpayer.

9 (ii) A termination of employment of a qualified employee who,
10 before the close of the period referred to in paragraph (1), becomes
11 disabled and unable to perform the services of that employment,
12 unless that disability is removed before the close of that period
13 and the taxpayer fails to offer reemployment to that employee.

14 (iii) A termination of employment of a qualified employee, if
15 it is determined that the termination was due to the misconduct (as
16 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
17 the California Code of Regulations) of that employee.

18 (iv) A termination of employment of a qualified employee due
19 to a substantial reduction in the trade or business operations of the
20 taxpayer.

21 (v) A termination of employment of a qualified employee, if
22 that employee is replaced by other qualified employees so as to
23 create a net increase in both the number of employees and the
24 hours of employment.

25 (B) Subparagraph (B) of paragraph (1) shall not apply to any
26 of the following:

27 (i) A failure to continue the seasonal employment of a qualified
28 employee who voluntarily fails to return to the seasonal
29 employment of the taxpayer.

30 (ii) A failure to continue the seasonal employment of a qualified
31 employee who, before the close of the period referred to in
32 subparagraph (B) of paragraph (1), becomes disabled and unable
33 to perform the services of that seasonal employment, unless that
34 disability is removed before the close of that period and the
35 taxpayer fails to offer seasonal employment to that qualified
36 employee.

37 (iii) A failure to continue the seasonal employment of a qualified
38 employee, if it is determined that the failure to continue the
39 seasonal employment was due to the misconduct (as defined in

1 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
2 Code of Regulations) of that qualified employee.

3 (iv) A failure to continue seasonal employment of a qualified
4 employee due to a substantial reduction in the regular seasonal
5 trade or business operations of the taxpayer.

6 (v) A failure to continue the seasonal employment of a qualified
7 employee, if that qualified employee is replaced by other qualified
8 employees so as to create a net increase in both the number of
9 seasonal employees and the hours of seasonal employment.

10 (C) For purposes of paragraph (1), the employment relationship
11 between the taxpayer and a qualified employee shall not be treated
12 as terminated by reason of a mere change in the form of conducting
13 the trade or business of the taxpayer, if the qualified employee
14 continues to be employed in that trade or business and the taxpayer
15 retains a substantial interest in that trade or business.

16 (3) Any increase in tax under paragraph (1) shall not be treated
17 as tax imposed by this part for purposes of determining the amount
18 of any credit allowable under this part.

19 (f) In the case of an estate or trust, both of the following apply:

20 (1) The qualified wages for any taxable year shall be apportioned
21 between the estate or trust and the beneficiaries on the basis of the
22 income of the estate or trust allocable to each.

23 (2) Any beneficiary to whom any qualified wages have been
24 apportioned under paragraph (1) shall be treated, for purposes of
25 this part, as the employer with respect to those wages.

26 (g) For purposes of this section, “enterprise zone” means an
27 area designated as an enterprise zone pursuant to Chapter 12.8
28 (commencing with Section 7070) of Division 7 of Title 1 of the
29 Government Code.

30 (h) The credit allowable under this section shall be reduced by
31 the credit allowed under Sections 17053.10, 17053.17, and
32 17053.46 claimed for the same employee. The credit shall also be
33 reduced by the federal credit allowed under Section 51 of the
34 Internal Revenue Code, as amended by the Economic Stabilization
35 Act of 2008 (Public Law 110-343).

36 In addition, any deduction otherwise allowed under this part for
37 the wages or salaries paid or incurred by the taxpayer upon which
38 the credit is based shall be reduced by the amount of the credit,
39 prior to any reduction required by subdivision (i) or (j).

1 (i) In the case where the credit otherwise allowed under this
2 section exceeds the “net tax” for the taxable year, that portion of
3 the credit that exceeds the “net tax” may be carried over and added
4 to the credit, if any, in the succeeding 10 taxable years, if necessary,
5 until the credit is exhausted. The credit shall be applied first to the
6 earliest taxable years possible.

7 (j) (1) The amount of the credit otherwise allowed under this
8 section and Section 17053.70, including any credit carryover from
9 prior years, that may reduce the “net tax” for the taxable year shall
10 not exceed the amount of tax which would be imposed on the
11 taxpayer’s business income attributable to the enterprise zone
12 determined as if that attributable income represented all of the
13 income of the taxpayer subject to tax under this part.

14 (2) Attributable income shall be that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 enterprise zone. For that purpose, the taxpayer’s business income
17 attributable to sources in this state first shall be determined in
18 accordance with Chapter 17 (commencing with Section 25101) of
19 Part 11. That business income shall be further apportioned to the
20 enterprise zone in accordance with Article 2 (commencing with
21 Section 25120) of Chapter 17 of Part 11, modified for purposes
22 of this section in accordance with paragraph (3).

23 (3) Business income shall be apportioned to the enterprise zone
24 by multiplying the total California business income of the taxpayer
25 by a fraction, the numerator of which is the property factor plus
26 the payroll factor, and the denominator of which is two. For
27 purposes of this paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the enterprise zone during
31 the taxable year, and the denominator of which is the average value
32 of all the taxpayer’s real and tangible personal property owned or
33 rented and used in this state during the taxable year.

34 (B) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the enterprise zone during
36 the taxable year for compensation, and the denominator of which
37 is the total compensation paid by the taxpayer in this state during
38 the taxable year.

39 (4) The portion of any credit remaining, if any, after application
40 of this subdivision, shall be carried over to succeeding taxable

1 years, if necessary, until the credit is exhausted, as if it were an
2 amount exceeding the “net tax” for the taxable year, as provided
3 in subdivision (i). However, the portion of any credit remaining
4 for carryover to taxable years beginning on or after January 1,
5 2014, if any, after application of this subdivision, shall be carried
6 over only to the succeeding 10 taxable years if necessary, until the
7 credit is exhausted, as if it were an amount exceeding the “net tax”
8 for the taxable year, as provided in subdivision (i).

9 (k) The changes made to this section by the act adding this
10 subdivision shall apply to taxable years beginning on or after
11 January 1, 1997.

12 (l) (1) Except as provided in paragraph (2), this section shall
13 cease to be operative on January 1, 2014, and shall be repealed on
14 December 1, 2019. A credit shall not be allowed under this section
15 with respect to an employee who first commences employment
16 with a taxpayer on or after January 1, 2014.

17 (2) This section shall continue to apply with respect to qualified
18 employees who are employed by the taxpayer within the enterprise
19 zone within the 60-month period immediately preceding January
20 1, 2014, and qualified wages paid or incurred with respect to those
21 qualified employees shall continue to qualify for the credit under
22 this section for taxable years beginning on or after January 1, 2014,
23 in accordance with this section, as amended by the act adding this
24 subdivision.

25 SEC. 5. Section 17088 of the Revenue and Taxation Code is
26 amended to read:

27 17088. (a) Subchapter M of Chapter 1 of Subtitle A of the
28 Internal Revenue Code, relating to regulated investment companies
29 and real estate investment trusts, shall apply, except as otherwise
30 provided.

31 (b) Section 17145 shall apply in lieu of Section 852(b)(5) of the
32 Internal Revenue Code, relating to exempt-interest dividends.

33 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,
34 relating to treatment by shareholders of undistributed capital gains,
35 shall not apply.

36 (2) Section 852(g)(1)(A) of the Internal Revenue Code is
37 modified by substituting the phrase “subdivision (a) of Section
38 17145” for the phrase “the first sentence of subsection (b)(5)”
39 contained therein.

1 SEC. 6. Section 17131.7 of the Revenue and Taxation Code
2 is repealed.

3 SEC. 7. Section 17131.12 of the Revenue and Taxation Code
4 is repealed.

5 SEC. 8. Section 17131.14 of the Revenue and Taxation Code
6 is repealed.

7 SEC. 9. Section 17134.1 of the Revenue and Taxation Code
8 is repealed.

9 SEC. 10. Section 17144 of the Revenue and Taxation Code is
10 amended to read:

11 17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code,
12 relating to general business credit, is modified by substituting “this
13 part” in lieu of “Section 38 (relating to general business credit).”

14 (b) Section 108(b)(2)(G) of the Internal Revenue Code, relating
15 to foreign tax credit carryovers, shall not apply.

16 (c) Section 108(b)(3)(B) of the Internal Revenue Code, relating
17 to credit carryover reduction, is modified by substituting “11.1
18 cents” in lieu of “33 $\frac{1}{3}$ cents” in each place in which it appears. In
19 the case where more than one credit is allowable under this part,
20 the credits shall be reduced on a pro rata basis.

21 (d) Section 108(g)(3)(B) of the Internal Revenue Code, relating
22 to adjusted tax attributes, is modified by substituting “(\$9)” in lieu
23 of “(\$3).”

24 (e) (1) If a taxpayer makes an election for federal income tax
25 purposes under Section 108(c) of the Internal Revenue Code,
26 relating to treatment of discharge of qualified real property business
27 indebtedness, a separate election shall not be allowed under
28 paragraph (3) of subdivision (e) of Section 17024.5 and the federal
29 election shall be binding for purposes of this part.

30 (2) If a taxpayer has not made an election for federal income
31 tax purposes under Section 108(c) of the Internal Revenue Code,
32 relating to treatment of discharge of qualified real property business
33 indebtedness, then the taxpayer shall not be allowed to make that
34 election for purposes of this part.

35 (f) Section 108(i) of the Internal Revenue Code, relating to
36 deferral and ratable inclusion of income arising from business
37 indebtedness discharged by the reacquisition of a debt instrument,
38 shall not apply.

39 SEC. 11. Section 17201.1 of the Revenue and Taxation Code
40 is repealed.

1 SEC. 12. Section 17215 of the Revenue and Taxation Code is
2 amended to read:

3 17215. (a) Section 220(a) of the Internal Revenue Code,
4 relating to deduction allowed, is modified to provide that the
5 amount allowed as a deduction shall be an amount equal to the
6 amount allowed to that individual as a deduction under Section
7 220 of the Internal Revenue Code, relating to medical savings
8 accounts, on the federal income tax return filed for the same taxable
9 year by that individual.

10 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
11 additional tax on distributions not used for qualified medical
12 expenses, is modified by substituting “12.5 percent” in lieu of “20
13 percent.”

14 (c) The amendments made to this section by the act adding this
15 subdivision shall apply to disbursements made during taxable years
16 beginning on or after January 1, 2016.

17 SEC. 13. Section 17240 is added to the Revenue and Taxation
18 Code, to read:

19 17240. The fee imposed by Section 9008 of the Patient
20 Protection and Affordable Care Act (Public Law 111-148), shall
21 be considered a tax described in Section 275(a)(6) of the Internal
22 Revenue Code.

23 SEC. 14. Section 17241 is added to the Revenue and Taxation
24 Code, to read:

25 17241. (a) Section 213(a) of the Internal Revenue Code,
26 relating to allowance of deduction, is modified by substituting “7.5
27 percent” for “10 percent.”

28 (b) Section 213(f) of the Internal Revenue Code, relating to
29 special rule for 2013, 2014, 2015, and 2016, shall not apply.

30 SEC. 15. Section 17280.1 of the Revenue and Taxation Code
31 is repealed.

32 SEC. 16. Section 17322.1 of the Revenue and Taxation Code
33 is repealed.

34 SEC. 17. Section 17323 is added to the Revenue and Taxation
35 Code, to read:

36 17323. Section 382(n) of the Internal Revenue Code, relating
37 to special rule for certain ownership changes, shall not apply.

38 SEC. 18. Section 18155 of the Revenue and Taxation Code is
39 amended to read:

1 18155. A deduction shall not be allowed for capital loss
2 carrybacks provided by Section 1212 of the Internal Revenue Code,
3 relating to capital loss carrybacks and carryovers.

4 SEC. 19. Section 19131.5 is added to the Revenue and Taxation
5 Code, to read:

6 19131.5. (a) Section 6164 of the Internal Revenue Code,
7 relating to extension of time for payment of taxes by corporations
8 expecting carrybacks, shall apply, except as otherwise provided.

9 (b) (1) Section 6164 of the Internal Revenue Code is modified
10 by substituting the phrase “Secretary or the Franchise Tax Board”
11 for the word “Secretary” in each place it appears.

12 (2) Section 6164(a) of the Internal Revenue Code is modified
13 by substituting the phrase “Part 11 (commencing with Section
14 23001)” in lieu of the phrase “subtitle A.”

15 (3) Section 6164(b) of the Internal Revenue Code, relating to
16 contents of statement, is modified by substituting the phrase
17 “Section 24416.20” in lieu of the phrase “Section 172(b).”

18 (4) Section 6164(d)(2) of the Internal Revenue Code shall not
19 apply.

20 (5) Section 6164(h) of the Internal Revenue Code, relating to
21 jeopardy, is modified as follows:

22 (A) By substituting the phrase “he or the Franchise Tax Board”
23 for the word “he” in each place it appears.

24 (B) By substituting the phrase “him or the Franchise Tax Board”
25 for the word “him” in each place it appears.

26 (6) Section 6164(i) of the Internal Revenue Code, relating to
27 consolidated returns, is modified by substituting the phrase
28 “combined report” in lieu of the phrase “consolidated return” in
29 each place it appears.

30 SEC. 20. *Section 19138 of the Revenue and Taxation Code is*
31 *amended to read:*

32 19138. (a) (1) A taxpayer subject to the tax imposed under
33 Part 11 (commencing with Section 23001) with an understatement
34 of tax for any taxable year shall be subject to the penalty imposed
35 under this section if that understatement exceeds the greater of the
36 following:

37 (A) One million dollars (\$1,000,000).

38 (B) Twenty percent of the tax shown on an original return or
39 shown on an amended return filed on or before the original or
40 extended due date of the return for the taxable year.

(2) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the threshold amount prescribed in subparagraph (A) or subparagraph (B) of paragraph (1) shall apply to the aggregate amount of tax liability under Part 11 (commencing with Section 23001) for all taxpayers that are required to be or authorized to be included in a combined report.

(b) (1) The penalty under this section shall be an amount equal to 20 percent of any understatement of tax. For purposes of this section, "understatement of tax" means the amount by which the tax imposed by Part 11 (commencing with Section 23001) exceeds the amount of tax shown on an original return or shown on an amended return filed on or before the original or extended due date of the return for the taxable year. ~~For any taxable year beginning before January 1, 2008, the amount of tax paid on or before May 31, 2009, and shown on an amended return filed on or before May 31, 2009, shall be treated as the amount of tax shown on an original return for purposes of this section.~~

(2) For any taxable year beginning before January 1, 2008, the amount of tax paid on or before May 31, 2009, and shown on an amended return filed on or before May 31, 2009, shall be treated as the amount of tax shown on an original return for purposes of this section.

(3) The amount of additional tax shown on the first amended return reflecting a proper election under Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, shall be treated as if that amount was included in the amount of tax shown on an original return for purposes of this section.

(c) The penalty imposed by this section shall be in addition to any other penalty imposed under Part 11 (commencing with Section 23001) or this part.

(d) Article 3 (commencing with Section 19031), relating to deficiency assessments, shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

(e) A refund or credit for any amounts paid to satisfy a penalty imposed under this section may be allowed only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board.

1 (f) ~~(1)~~ No penalty shall be imposed under this section on any
2 understatement to the extent that the understatement is attributable
3 to a change in law that is enacted, promulgated, issued, or becomes
4 final after the earlier of either of the following dates: any of the
5 following:

6 (1) (A) A change in law that is enacted, promulgated, issued,
7 or becomes final after the earlier of either of the following dates:

8 ~~(A)~~

9 (i) The date the taxpayer files the return for the taxable year for
10 which the change is operative.

11 ~~(B)~~

12 (ii) The extended due date for the return of the taxpayer for the
13 taxable year for which the change is operative.

14 ~~(2)~~

15 (B) For purposes of this ~~subdivision~~, paragraph, a “change of
16 law” means a statutory change or an interpretation of law or rule
17 of law by regulation, legal ruling of counsel, within the meaning
18 of subdivision (b) of Section 11340.9 of the Government Code,
19 or a published federal or California court decision.

20 ~~(3)~~

21 (C) The Franchise Tax Board shall implement this ~~subdivision~~
22 paragraph in a reasonable manner.

23 (2) *The imposition of an alternative apportionment or allocation*
24 *method by the Franchise Tax Board under the authority of Section*
25 *25137 because the standard allocation and apportionment*
26 *provisions of Article 2 (commencing with Section 25120) and the*
27 *regulations thereunder do not fairly represent the extent of the*
28 *taxpayer’s business activity in this state.*

29 (3) *A change to the taxpayer’s federal accounting method*
30 *pursuant to Section 446 of the Internal Revenue Code, relating to*
31 *general rule for methods of accounting, that is applicable for*
32 *purposes of Part 11 (commencing with Section 23001), but only*
33 *to the extent of understatements for taxable years where the due*
34 *date of the return, without regard to any extension of time for filing*
35 *the return, is before the date on consent of the secretary to that*
36 *change of accounting method.*

37 (g) No penalty shall be imposed under this section to the extent
38 that a taxpayer’s understatement is attributable to the taxpayer’s
39 reasonable reliance on written advice of the Franchise Tax Board,
40 but only if the written advice was a legal ruling by the Chief

1 Counsel, within the meaning of paragraph (1) of subdivision (a)
2 of Section 21012.

3 (h) (1) This section shall apply to each taxable year beginning
4 on or after January 1, 2003, for which the statute of limitations on
5 assessment has not expired.

6 (2) The amendments made to this section by ~~the act adding this~~
7 ~~paragraph Chapter 721 of the Statutes of 2010~~ shall apply to each
8 taxable year beginning on or after January 1, 2010.

9 (3) (A) *Except as otherwise provided, the amendments made*
10 *to this section by the act adding this paragraph shall apply to each*
11 *taxable year beginning on or after January 1, 2015.*

12 (B) *The provisions of paragraph (2) of subdivision (f), as added*
13 *by the act adding this paragraph, shall apply to understatement*
14 *for any taxable year for which the statute of limitations on*
15 *assessments has not expired as of the effective date of the act*
16 *adding this paragraph.*

17 ~~SEC. 20.~~

18 SEC. 21. Section 19141.5 of the Revenue and Taxation Code
19 is amended to read:

20 19141.5. (a) (1) Section 6038A of the Internal Revenue Code,
21 relating to information with respect to certain foreign-owned
22 corporations, shall apply.

23 (2) A penalty shall be imposed under this part for failure to
24 furnish information or maintain records and that penalty shall be
25 determined in accordance with Section 6038A of the Internal
26 Revenue Code.

27 (3) Section 11314 of Public Law 101-508, relating to application
28 of amendments made by Section 7403 of the Revenue
29 Reconciliation Act of 1989 to taxable years beginning on or before
30 July 10, 1989, shall apply.

31 (4) Section 6038A(e) of the Internal Revenue Code, relating to
32 enforcement of requests for certain records, is modified as follows:

33 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
34 Revenue Code shall instead refer to Section 19504.

35 (B) Each reference to “summons” shall instead refer to
36 “subpoena duces tecum.”

37 (C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall
38 refer to “superior courts of the State of California for the Counties
39 of Los Angeles, Sacramento, and San Diego, and for the City and
40 County of San Francisco,” instead of “United States district court

1 for the district in which the person (to whom the summons is
2 issued) resides or is found.”

3 (b) In the case of a corporation, each of the following shall
4 apply:

5 (1) Section 6038B of the Internal Revenue Code, relating to
6 notice of certain transfers to foreign persons, shall apply, except
7 as otherwise provided.

8 (2) The information required to be filed with the Franchise Tax
9 Board under this subdivision shall be a copy of the information
10 required to be filed with the Internal Revenue Service.

11 (3) (A) A penalty shall be imposed under this part for failure
12 to furnish information and that penalty shall be determined in
13 accordance with Section 6038B of the Internal Revenue Code,
14 except as otherwise provided.

15 (B) Subparagraph (A) shall not apply to any transfer described
16 in Section 6038B(a)(1)(B) of the Internal Revenue Code.

17 (c) (1) Section 6038C of the Internal Revenue Code, relating
18 to information with respect to foreign corporations engaged in
19 United States business, shall apply.

20 (2) A penalty shall be imposed under this part for failure to
21 furnish information or maintain records and that penalty shall be
22 determined in accordance with Section 6038C of the Internal
23 Revenue Code.

24 (3) Section 6038C(d) of the Internal Revenue Code, relating to
25 enforcement of requests for certain records, is modified as follows:

26 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
27 Revenue Code shall instead refer to Section 19504.

28 (B) Each reference to “summons” shall instead refer to
29 “subpoena duces tecum.”

30 (d) (1) Section 6038D of the Internal Revenue Code, relating
31 to information with respect to foreign financial assets, shall apply.

32 (2) A penalty shall be imposed under this part for failure to
33 furnish information and that penalty shall be determined in
34 accordance with Section 6038D of the Internal Revenue Code.

35 (e) For purposes of this part, the information required to be filed
36 with the Franchise Tax Board pursuant to this section shall be a
37 copy of the information filed with the Internal Revenue Service.

38 (f) For purposes of this section, each of the following shall
39 apply:

1 (1) Section 7701(a)(4) of the Internal Revenue Code, relating
2 to the term “domestic,” shall apply.

3 (2) Section 7701(a)(5) of the Internal Revenue Code, relating
4 to the term “foreign,” shall apply.

5 (3) Section 7701(a)(30) of the Internal Revenue Code, relating
6 to the term “United States person,” shall apply. However, the term
7 “United States person” shall not include any corporation that is
8 not subject to the tax imposed under Chapter 2 (commencing with
9 Section 23101), Chapter 2.5 (commencing with Section 23400),
10 or Chapter 3 (commencing with Section 23501), of Part 11.

11 (g) The amendments made to this section by the act adding this
12 subdivision shall apply to taxable years beginning on or after
13 January 1, 2016.

14 ~~SEC. 21:~~

15 *SEC. 22.* Section 19164 of the Revenue and Taxation Code is
16 amended to read:

17 19164. (a) (1) (A) An accuracy-related penalty shall be
18 imposed under this part and shall be determined in accordance
19 with Section 6662 of the Internal Revenue Code, relating to
20 imposition of accuracy-related penalty on underpayments, except
21 as otherwise provided.

22 (B) (i) Except for understatements relating to reportable
23 transactions to which Section 19164.5 applies, in the case of any
24 proposed deficiency assessment issued after the last date of the
25 amnesty period specified in Chapter 9.1 (commencing with Section
26 19730) for any taxable year beginning prior to January 1, 2003,
27 the penalty specified in Section 6662(a) of the Internal Revenue
28 Code shall be computed by substituting “40 percent” for “20
29 percent.”

30 (ii) Clause (i) shall not apply to any taxable year of a taxpayer
31 beginning prior to January 1, 2003, if, as of the start date of the
32 amnesty program period specified in Section 19731, the taxpayer
33 is then under audit by the Franchise Tax Board, or the taxpayer
34 has filed a protest under Section 19041, or the taxpayer has filed
35 an appeal under Section 19045, or the taxpayer is engaged in
36 settlement negotiations under Section 19442, or the taxpayer has
37 a pending judicial proceeding in any court of this state or in any
38 federal court relating to the tax liability of the taxpayer for that
39 taxable year.

1 (2) With respect to corporations, this subdivision shall apply to
2 all of the following:

3 (A) All taxable years beginning on or after January 1, 1990.

4 (B) Any other taxable year for which an assessment is made
5 after July 16, 1991.

6 (C) For purposes of this section, references in Section 6662(e)
7 of the Internal Revenue Code and the regulations thereunder,
8 relating to treatment of an affiliated group that files a consolidated
9 federal return, are modified to apply to those entities required to
10 be included in a combined report under Section 25101 or 25110.
11 For these purposes, entities included in a combined report pursuant
12 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall
13 be considered only to the extent required to be included in the
14 combined report.

15 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is
16 modified to provide that in the case of a corporation, other than
17 an “S” corporation, there is a substantial understatement of tax for
18 any taxable year if the amount of the understatement for the taxable
19 year exceeds the lesser of:

20 (A) Ten percent of the tax required to be shown on the return
21 for the taxable year (or, if greater, two thousand five hundred
22 dollars (\$2,500)).

23 (B) Five million dollars (\$5,000,000).

24 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is
25 modified to additionally provide that the excess determined under
26 Section 6662(d)(2)(A) of the Internal Revenue Code shall be
27 determined without regard to items to which Section 19164.5
28 applies and without regard to items with respect to which a penalty
29 is imposed by Section 19774.

30 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the
31 Internal Revenue Code shall apply to returns filed on or after
32 January 1, 2010.

33 (b) For purposes of Section 6662(d) of the Internal Revenue
34 Code, Section 6664 of the Internal Revenue Code, Section
35 6694(a)(1) of the Internal Revenue Code, and this part, the
36 Franchise Tax Board may prescribe a list of positions for which
37 the Franchise Tax Board believes there is not substantial authority
38 or there is no reasonable belief that the tax treatment is more likely
39 than not the proper tax treatment. That list (and any revisions
40 thereof) shall be published through the use of Franchise Tax Board

1 Notices or other published positions. In addition, the “listed
2 transactions” identified and published pursuant to the preceding
3 sentence shall be published on the Web site of the Franchise Tax
4 Board.

5 (c) A fraud penalty shall be imposed under this part and shall
6 be determined in accordance with Section 6663 of the Internal
7 Revenue Code, relating to imposition of fraud penalty, except as
8 otherwise provided.

9 (d) (1) Section 6664 of the Internal Revenue Code, relating to
10 definitions and special rules, shall apply, except as otherwise
11 provided.

12 (2) Section 6664(c)(3) of the Internal Revenue Code shall apply
13 to returns filed on or after January 1, 2010.

14 (3) Section 6664(c)(4) of the Internal Revenue Code shall apply
15 to appraisals prepared with respect to returns or submissions filed
16 on or after January 1, 2010.

17 (e) Except for purposes of subdivision (e) of Section 19774,
18 Section 6662(b)(6) of the Internal Revenue Code shall not apply.

19 (f) Except for purposes of subdivision (e) of Section 19774,
20 Section 6662(i) of the Internal Revenue Code, relating to increase
21 in penalty in case of nondisclosed noneconomic substance
22 transactions, shall not apply.

23 (g) Section 6665 of the Internal Revenue Code, relating to
24 applicable rules, shall apply, except as otherwise provided.

25 (h) The amendments made to this section by Chapter 14 of the
26 Statutes of 2011 shall apply to notices mailed on or after January
27 1, 2012.

28 ~~SEC. 22. Section 19167 of the Revenue and Taxation Code is~~
29 ~~amended to read:~~

30 ~~19167. A penalty shall be imposed under this section for any~~
31 ~~of the following:~~

32 ~~(a) In accordance with Section 6695(a) of the Internal Revenue~~
33 ~~Code, relating to failure to furnish a copy to taxpayer, as required~~
34 ~~by Section 18625, except as otherwise provided.~~

35 ~~(b) In accordance with Section 6695(c) of the Internal Revenue~~
36 ~~Code, relating to failure to furnish identifying number, as required~~
37 ~~by Section 18624, except as otherwise provided.~~

38 ~~(c) In accordance with Section 6695(d) of the Internal Revenue~~
39 ~~Code, relating to failure to retain copy or list, as required by Section~~

1 ~~18625 or for failure to retain an electronic filing declaration, as~~
2 ~~required by Section 18621.5, except as otherwise provided.~~

3 ~~(d) Section 6695(h) of the Internal Revenue Code, relating to~~
4 ~~adjustment for inflation, shall not apply.~~

5 ~~(e) Failure to register as a tax preparer with the California Tax~~
6 ~~Education Council, as required by Section 22253 of the Business~~
7 ~~and Professions Code, unless it is shown that the failure was due~~
8 ~~to reasonable cause and not due to willful neglect.~~

9 ~~(1) The amount of the penalty under this subdivision for the~~
10 ~~first failure to register is two thousand five hundred dollars~~
11 ~~(\$2,500). This penalty shall be waived if proof of registration is~~
12 ~~provided to the Franchise Tax Board within 90 days from the date~~
13 ~~notice of the penalty is mailed to the tax preparer.~~

14 ~~(2) The amount of the penalty under this subdivision for a failure~~
15 ~~to register, other than the first failure to register, is five thousand~~
16 ~~dollars (\$5,000).~~

17 ~~(f) The Franchise Tax Board shall not impose the penalties~~
18 ~~authorized by subdivision (e) until either one of the following has~~
19 ~~occurred:~~

20 ~~(1) Commencing January 1, 2006, and continuing each year~~
21 ~~thereafter, there is an appropriation in the Franchise Tax Board's~~
22 ~~annual budget to fund the costs associated with the penalty~~
23 ~~authorized by subdivision (e).~~

24 ~~(2) (A) An agreement has been executed between the California~~
25 ~~Tax Education Council and the Franchise Tax Board that provides~~
26 ~~that an amount equal to all first year costs associated with the~~
27 ~~penalty authorized by subdivision (e) shall be received by the~~
28 ~~Franchise Tax Board. For purposes of this subparagraph, first year~~
29 ~~costs include, but are not limited to, costs associated with the~~
30 ~~development of processes or systems changes, if necessary, and~~
31 ~~labor.~~

32 ~~(B) An agreement has been executed between the California~~
33 ~~Tax Education Council and the Franchise Tax Board that provides~~
34 ~~that the annual costs incurred by the Franchise Tax Board~~
35 ~~associated with the penalty authorized by subdivision (e) shall be~~
36 ~~reimbursed by the California Tax Education Council to the~~
37 ~~Franchise Tax Board.~~

38 ~~(C) Pursuant to the agreement described in subparagraph (A),~~
39 ~~the Franchise Tax Board has received an amount equal to the first~~
40 ~~year costs described in that subparagraph.~~

SEC. 23. Section 19167 of the Revenue and Taxation Code is amended to read:

19167. A penalty shall be imposed under this section for any of the following:

(a) In accordance with Section 6695(a) of the Internal Revenue Code, ~~for relating to failure to furnish a copy of the return to the~~ taxpayer, as required by Section ~~18625. 18625~~, except as otherwise provided.

(b) In accordance with Section 6695(c) of the Internal Revenue Code, ~~for relating to failure to furnish an identifying number, as required by Section 18624. 18624~~, except as otherwise provided.

(c) In accordance with Section 6695(d) of the Internal Revenue Code, ~~for relating to failure to retain a copy or list, as required by Section 18625 or for failure to retain an electronic filing declaration, as required by Section 18621.5. 18521.5~~, except as otherwise provided.

(d) Failure to register as a tax preparer with the California Tax Education Council, as required by Section 22253 of the Business and Professions Code, unless it is shown that the failure was due to reasonable cause and not due to willful neglect.

(1) The amount of the penalty under this subdivision for the first failure to register is two thousand five hundred dollars (\$2,500). This penalty shall be waived if proof of registration is provided to the Franchise Tax Board within 90 days from the date notice of the penalty is mailed to the tax preparer.

(2) The amount of the penalty under this subdivision for a failure to register, other than the first failure to register, is five thousand dollars (\$5,000).

(e) The Franchise Tax Board shall not impose the penalties authorized by subdivision (d) until either one of the following has occurred:

(1) Commencing January 1, 2006, and continuing each year thereafter, there is an appropriation in the Franchise Tax Board's annual budget to fund the costs associated with the penalty authorized by subdivision (d).

(2) (A) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that an amount equal to all first year costs associated with the penalty authorized by subdivision (d) shall be received by the Franchise Tax Board. For purposes of this subparagraph, first year

1 costs include, but are not limited to, costs associated with the
2 development of processes or systems changes, if necessary, and
3 labor.

4 (B) An agreement has been executed between the California
5 Tax Education Council and the Franchise Tax Board that provides
6 that the annual costs incurred by the Franchise Tax Board
7 associated with the penalty authorized by subdivision (d) shall be
8 reimbursed by the California Tax Education Council to the
9 Franchise Tax Board.

10 (C) Pursuant to the agreement described in subparagraph (A),
11 the Franchise Tax Board has received an amount equal to the first
12 year costs described in that subparagraph.

13 (f) In accordance with Section 6695(g) of the Internal Revenue
14 Code, for failure to be diligent in determining eligibility for earned
15 income credit for returns required to be filed on or after ~~the~~
16 ~~effective date of the act adding this subdivision.~~ *June 24, 2015.*

17 (g) *Section 6695(h) of the Internal Revenue Code, relating to*
18 *adjustment for inflation, shall not apply.*

19 ~~SEC. 23.~~

20 *SEC. 24.* Section 19183 of the Revenue and Taxation Code is
21 amended to read:

22 19183. (a) (1) A penalty shall be imposed for failure to file
23 correct information returns, as required by this part, and that
24 penalty shall be determined in accordance with Section 6721 of
25 the Internal Revenue Code, relating to failure to file correct
26 information returns.

27 (2) Section 6721(e) of the Internal Revenue Code, relating to
28 penalty in case of intentional disregard, is modified to the extent
29 that the reference to Section 6041A(b) of the Internal Revenue
30 Code, relating to direct sales of \$5,000 or more, shall not apply.

31 (3) Section 6721(f)(1) of the Internal Revenue Code is modified
32 to substitute the phrase “For each fifth calendar year beginning
33 after 2014” for the phrase “In the case of any failure relating to a
34 return required to be filed in a calendar year beginning after 2014.”

35 (b) (1) A penalty shall be imposed for failure to furnish correct
36 payee statements as required by this part, and that penalty shall be
37 determined in accordance with Section 6722 of the Internal
38 Revenue Code, relating to failure to furnish correct payee
39 statements.

(2) Section 6722(c) of the Internal Revenue Code, relating to exception for de minimus failures, is modified to the extent that the references to Sections 6041A(b) and 6041A(e) of the Internal Revenue Code, relating to direct sales of \$5,000 or more, and statements to be furnished to persons with respect to whom information is required to be furnished, shall not apply.

(3) Section 6722(f)(1) of the Internal Revenue Code is modified to substitute the phrase “For each fifth calendar year beginning after 2014” for the phrase “In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014.”

(c) A penalty shall be imposed for failure to comply with other information reporting requirements under this part, and that penalty shall be determined in accordance with Section 6723 of the Internal Revenue Code, relating to failure to comply with other information reporting requirements.

(d) (1) The provisions of Section 6724 of the Internal Revenue Code, relating to waiver; definitions, and special rules, shall apply, except as otherwise provided.

(2) Section 6724(d)(1) of the Internal Revenue Code, relating to information return, is modified as follows:

(A) The following references are substituted:

(i) Subdivision (a) of Section 18640, in lieu of Section 6044(a)(1) of the Internal Revenue Code.

(ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a) of the Internal Revenue Code, relating to reports.

(B) References to Sections 4101(d), 6041(b), 6041A(b), 6045(d), 6051(d), and 6053(c)(1) of the Internal Revenue Code shall not apply.

(C) The term “information return” shall also include both of the following:

(i) The return required by paragraph (1) of subdivision (i) of Section 18662.

(ii) The return required by subdivision (a) of Section 18631.7.

(3) Section 6724(d)(2) of the Internal Revenue Code, relating to payee statement, is modified as follows:

(A) The following references are substituted:

(i) Subdivision (b) of Section 18640, in lieu of Section 6044(e) of the Internal Revenue Code, relating to statements to be furnished to persons with respect to whom information is required.

(ii) Subdivision (b) of Section 18644, in lieu of Section 6050A(b) of the Internal Revenue Code, relating to written statement.

(B) References to Sections 6031(b), 6037(b), 6041A(e), 6045(d), 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code shall not apply.

(C) The term “payee statement” shall also include the statement required by paragraph (2) of subdivision (i) of Section 18662.

(e) In the case of each failure to provide a written explanation as required by Section 402(f) of the Internal Revenue Code, relating to written explanation to recipients of distributions eligible for rollover treatment, at the time prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Franchise Tax Board and in the same manner as tax, by the person failing to provide that written explanation, an amount equal to ten dollars (\$10) for each failure, but the total amount imposed on that person for all those failures during any calendar year shall not exceed five thousand dollars (\$5,000).

(f) Any penalty imposed by this part shall be paid on notice and demand by the Franchise Tax Board and in the same manner as tax.

(g) The amendments made to this section by the act adding this subdivision shall apply to information returns required to be filed on or after January 1, 2016.

~~SEC. 24.~~

SEC. 25. Section 19772 of the Revenue and Taxation Code is amended to read:

19772. (a) Section 6707A of the Internal Revenue Code, relating to penalty for failure to include reportable transactions information with a return, shall apply, except as otherwise provided.

(b) (1) Section 6707A(b)(1) of the Internal Revenue Code relating to amount of penalty is modified by substituting the phrase “or which would have resulted from such transaction if such transaction were respected for state tax purposes” for the phrase “or which would have resulted from such transaction if such transaction were respected for Federal tax purposes.”

1 (2) The penalty amounts in Section 6707A(b)(2)(A) of the
2 Internal Revenue Code are modified by substituting “\$30,000
3 (\$15,000” for “\$200,000 (\$100,000.”

4 (3) The penalty amounts in Section 6707A(b)(2)(B) of the
5 Internal Revenue Code are modified by substituting “\$15,000
6 (\$5,000” for “\$50,000 (\$10,000.”

7 (4) The penalty amounts in Section 6707A(b)(3) of the Internal
8 Revenue Code relating to minimum penalty are modified by
9 substituting “\$2,500 (\$1,250” for “\$10,000 (\$5,000.”

10 (c) (1) Section 6707A(c)(1) of the Internal Revenue Code
11 relating to reportable transaction is modified to include reportable
12 transactions within the meaning of paragraph (3) of subdivision
13 (a) of Section 18407.

14 (2) Section 6707A(c)(2) of the Internal Revenue Code relating
15 to listed transaction is modified to include listed transactions within
16 the meaning of paragraph (4) of subdivision (a) of Section 18407.

17 (d) The penalty under this section only applies to taxpayers with
18 taxable income greater than two hundred thousand dollars
19 (\$200,000).

20 (e) Section 6707A(e) of the Internal Revenue Code, relating to
21 a penalty reported to the Securities and Exchange Commission,
22 shall not apply.

23 (f) Section 6707A(d) of the Internal Revenue Code, relating to
24 authority to rescind penalty, shall not apply, and in lieu thereof,
25 the following shall apply:

26 (1) The Chief Counsel of the Franchise Tax Board may rescind
27 all or any portion of any penalty imposed by this section with
28 respect to any violation if all of the following apply:

29 (A) The violation is with respect to a reportable transaction
30 other than a listed transaction.

31 (B) The person on whom the penalty is imposed has a history
32 of complying with the requirements of this part and Part 10
33 (commencing with Section 17001) or Part 11 (commencing with
34 Section 23001).

35 (C) It is shown that the violation is due to an unintentional
36 mistake of fact.

37 (D) Imposing the penalty would be against equity and good
38 conscience.

39 (E) Rescinding the penalty would promote compliance with the
40 requirements of this part and Part 10 (commencing with Section

1 17001) or Part 11 (commencing with Section 23001) and effective
2 tax administration.

3 (2) The exercise of authority under paragraph (1) shall be at the
4 sole discretion of the Chief Counsel of the Franchise Tax Board
5 and may not be delegated.

6 (3) Notwithstanding any other law or rule of law, any
7 determination under this subdivision may not be reviewed in any
8 administrative or judicial proceeding.

9 (g) Article 3 (commencing with Section 19031) of Chapter 4
10 (relating to deficiency assessments) shall not apply with respect
11 to the assessment or collection of any penalty imposed under this
12 section.

13 (h) The penalty imposed by this section is in addition to any
14 penalty imposed under Part 10 (commencing with Section 17001),
15 Part 11 (commencing with Section 23001), or this part.

16 (i) The amendments made to this section by the act adding this
17 subdivision shall apply to penalties assessed on or after January
18 1, 2016.

19 ~~SEC. 25.~~

20 *SEC. 26.* Section 23622.7 of the Revenue and Taxation Code
21 is amended to read:

22 23622.7. (a) There shall be allowed a credit against the “tax”
23 (as defined by Section 23036) to a taxpayer who employs a
24 qualified employee in an enterprise zone during the taxable year.
25 The credit shall be equal to the sum of each of the following:

26 (1) Fifty percent of qualified wages in the first year of
27 employment.

28 (2) Forty percent of qualified wages in the second year of
29 employment.

30 (3) Thirty percent of qualified wages in the third year of
31 employment.

32 (4) Twenty percent of qualified wages in the fourth year of
33 employment.

34 (5) Ten percent of qualified wages in the fifth year of
35 employment.

36 (b) For purposes of this section:

37 (1) “Qualified wages” means:

38 (A) (i) Except as provided in clause (ii), that portion of wages
39 paid or incurred by the taxpayer during the taxable year to qualified
40 employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, becomes inoperative, or is repealed.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

1 (I) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a person
3 eligible for services under the federal Job Training Partnership
4 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
5 or is eligible to receive, subsidized employment, training, or
6 services funded by the federal Job Training Partnership Act, or its
7 successor.

8 (II) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a person
10 eligible to be a voluntary or mandatory registrant under the Greater
11 Avenues for Independence Act of 1985 (GAIN) provided for
12 pursuant to Article 3.2 (commencing with Section 11320) of
13 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
14 Code, or its successor.

15 (III) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was an
17 economically disadvantaged individual 14 years of age or older.

18 (IV) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a dislocated
20 worker who meets any of the following:

21 (aa) Has been terminated or laid off or who has received a notice
22 of termination or layoff from employment, is eligible for or has
23 exhausted entitlement to unemployment insurance benefits, and
24 is unlikely to return to his or her previous industry or occupation.

25 (bb) Has been terminated or has received a notice of termination
26 of employment as a result of any permanent closure or any
27 substantial layoff at a plant, facility, or enterprise, including an
28 individual who has not received written notification but whose
29 employer has made a public announcement of the closure or layoff.

30 (cc) Is long-term unemployed and has limited opportunities for
31 employment or reemployment in the same or a similar occupation
32 in the area in which the individual resides, including an individual
33 55 years of age or older who may have substantial barriers to
34 employment by reason of age.

35 (dd) Was self-employed (including farmers and ranchers) and
36 is unemployed as a result of general economic conditions in the
37 community in which he or she resides or because of natural
38 disasters.

1 (ee) Was a civilian employee of the Department of Defense
2 employed at a military installation being closed or realigned under
3 the Defense Base Closure and Realignment Act of 1990.

4 (ff) Was an active member of the armed forces or National
5 Guard as of September 30, 1990, and was either involuntarily
6 separated or separated pursuant to a special benefits program.

7 (gg) Is a seasonal or migrant worker who experiences chronic
8 seasonal unemployment and underemployment in the agriculture
9 industry, aggravated by continual advancements in technology and
10 mechanization.

11 (hh) Has been terminated or laid off, or has received a notice
12 of termination or layoff, as a consequence of compliance with the
13 Clean Air Act.

14 (V) Immediately preceding the qualified employee's
15 commencement of employment with the taxpayer, was a disabled
16 individual who is eligible for or enrolled in, or has completed a
17 state rehabilitation plan or is a service-connected disabled veteran,
18 veteran of the Vietnam era, or veteran who is recently separated
19 from military service.

20 (VI) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was an
22 ex-offender. An individual shall be treated as convicted if he or
23 she was placed on probation by a state court without a finding of
24 guilt.

25 (VII) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was a person
27 eligible for or a recipient of any of the following:

28 (aa) Federal Supplemental Security Income benefits.

29 (bb) Aid to Families with Dependent Children.

30 (cc) CalFresh benefits.

31 (dd) State and local general assistance.

32 (VIII) Immediately preceding the qualified employee's
33 commencement of employment with the taxpayer, was a member
34 of a federally recognized Indian tribe, band, or other group of
35 Native American descent.

36 (IX) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a resident
38 of a targeted employment area (as defined in Section 7072 of the
39 Government Code).

1 (X) An employee who qualified the taxpayer for the enterprise
2 zone hiring credit under former Section 23622 or the program area
3 hiring credit under former Section 23623.

4 (XI) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a member
6 of a targeted group, as defined in Section 51(d) of the Internal
7 Revenue Code, or its successor.

8 (B) Priority for employment shall be provided to an individual
9 who is enrolled in a qualified program under the federal Job
10 Training Partnership Act or the Greater Avenues for Independence
11 Act of 1985 or who is eligible as a member of a targeted group
12 under the Work Opportunity Tax Credit (Section 51 of the Internal
13 Revenue Code), or its successor.

14 (5) "Taxpayer" means a corporation engaged in a trade or
15 business within an enterprise zone designated pursuant to Chapter
16 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
17 the Government Code.

18 (6) "Seasonal employment" means employment by a taxpayer
19 that has regular and predictable substantial reductions in trade or
20 business operations.

21 (c) The taxpayer shall do both of the following:

22 (1) Obtain from the Employment Development Department, as
23 permitted by federal law, the local county or city Job Training
24 Partnership Act administrative entity, the local county GAIN office
25 or social services agency, or the local government administering
26 the enterprise zone, a certification that provides that a qualified
27 employee meets the eligibility requirements specified in clause
28 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
29 Employment Development Department may provide preliminary
30 screening and referral to a certifying agency. The Employment
31 Development Department shall develop a form for this purpose.
32 The Department of Housing and Community Development shall
33 develop regulations governing the issuance of certificates by local
34 governments pursuant to subdivision (a) of Section 7086 of the
35 Government Code.

36 (2) Retain a copy of the certification and provide it upon request
37 to the Franchise Tax Board.

38 (d) (1) For purposes of this section:

1 (A) All employees of all corporations which are members of
2 the same controlled group of corporations shall be treated as
3 employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 expense of the qualified wages giving rise to the credit, and shall
7 be allocated in that manner.

8 (C) For purposes of this subdivision, “controlled group of
9 corporations” means “controlled group of corporations” as defined
10 in Section 1563(a) of the Internal Revenue Code, except that:

11 (i) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (ii) The determination shall be made without regard to
15 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
16 Revenue Code.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (e)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 a qualified employee and an employer shall not be treated as
24 terminated if the employee continues to be employed in that trade
25 or business.

26 (e) (1) (A) If the employment, other than seasonal employment,
27 of any qualified employee with respect to whom qualified wages
28 are taken into account under subdivision (a) is terminated by the
29 taxpayer at any time during the first 270 days of that employment,
30 whether or not consecutive, or before the close of the 270th
31 calendar day after the day in which that employee completes 90
32 days of employment with the taxpayer, the tax imposed by this
33 part for the taxable year in which that employment is terminated
34 shall be increased by an amount equal to the credit allowed under
35 subdivision (a) for that taxable year and all prior taxable years
36 attributable to qualified wages paid or incurred with respect to that
37 employee.

38 (B) If the seasonal employment of any qualified employee, with
39 respect to whom qualified wages are taken into account under
40 subdivision (a) is not continued by the taxpayer for a period of

1 270 days of employment during the 60-month period beginning
2 with the day the qualified employee commences seasonal
3 employment with the taxpayer, the tax imposed by this part, for
4 the taxable year that includes the 60th month following the month
5 in which the qualified employee commences seasonal employment
6 with the taxpayer, shall be increased by an amount equal to the
7 credit allowed under subdivision (a) for that taxable year and all
8 prior taxable years attributable to qualified wages paid or incurred
9 with respect to that qualified employee.

10 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
11 any of the following:

12 (i) A termination of employment of a qualified employee who
13 voluntarily leaves the employment of the taxpayer.

14 (ii) A termination of employment of a qualified employee who,
15 before the close of the period referred to in subparagraph (A) of
16 paragraph (1), becomes disabled and unable to perform the services
17 of that employment, unless that disability is removed before the
18 close of that period and the taxpayer fails to offer reemployment
19 to that employee.

20 (iii) A termination of employment of a qualified employee, if
21 it is determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that employee.

24 (iv) A termination of employment of a qualified employee due
25 to a substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of a qualified employee, if
28 that employee is replaced by other qualified employees so as to
29 create a net increase in both the number of employees and the
30 hours of employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 employee who voluntarily fails to return to the seasonal
35 employment of the taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 employee who, before the close of the period referred to in
38 subparagraph (B) of paragraph (1), becomes disabled and unable
39 to perform the services of that seasonal employment, unless that
40 disability is removed before the close of that period and the

1 taxpayer fails to offer seasonal employment to that qualified
2 employee.

3 (iii) A failure to continue the seasonal employment of a qualified
4 employee, if it is determined that the failure to continue the
5 seasonal employment was due to the misconduct (as defined in
6 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
7 Code of Regulations) of that qualified employee.

8 (iv) A failure to continue seasonal employment of a qualified
9 employee due to a substantial reduction in the regular seasonal
10 trade or business operations of the taxpayer.

11 (v) A failure to continue the seasonal employment of a qualified
12 employee, if that qualified employee is replaced by other qualified
13 employees so as to create a net increase in both the number of
14 seasonal employees and the hours of seasonal employment.

15 (C) For purposes of paragraph (1), the employment relationship
16 between the taxpayer and a qualified employee shall not be treated
17 as terminated by either of the following:

18 (i) By a transaction to which Section 381(a) of the Internal
19 Revenue Code applies, if the qualified employee continues to be
20 employed by the acquiring corporation.

21 (ii) By reason of a mere change in the form of conducting the
22 trade or business of the taxpayer, if the qualified employee
23 continues to be employed in that trade or business and the taxpayer
24 retains a substantial interest in that trade or business.

25 (3) Any increase in tax under paragraph (1) shall not be treated
26 as tax imposed by this part for purposes of determining the amount
27 of any credit allowable under this part.

28 (f) Rules similar to the rules provided in Section 46(e) and (h)
29 of the Internal Revenue Code shall apply to both of the following:

30 (1) An organization to which Section 593 of the Internal
31 Revenue Code applies.

32 (2) A regulated investment company or a real estate investment
33 trust subject to taxation under this part.

34 (g) For purposes of this section, “enterprise zone” means an
35 area designated as an enterprise zone pursuant to Chapter 12.8
36 (commencing with Section 7070) of Division 7 of Title 1 of the
37 Government Code.

38 (h) The credit allowable under this section shall be reduced by
39 the credit allowed under Sections 23623.5, 23625, and 23646
40 claimed for the same employee. The credit shall also be reduced

1 by the federal credit allowed under Section 51 of the Internal
2 Revenue Code, as amended by the Emergency Economic
3 Stabilization Act of 2008 (Public Law 110-343).

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the taxpayer upon which
6 the credit is based shall be reduced by the amount of the credit,
7 prior to any reduction required by subdivision (i) or (j).

8 (i) In the case where the credit otherwise allowed under this
9 section exceeds the “tax” for the taxable year, that portion of the
10 credit that exceeds the “tax” may be carried over and added to the
11 credit, if any, in the succeeding 10 taxable years, if necessary, until
12 the credit is exhausted. The credit shall be applied first to the
13 earliest taxable years possible.

14 (j) (1) The amount of the credit otherwise allowed under this
15 section and Section 23612.2, including any credit carryover from
16 prior years, that may reduce the “tax” for the taxable year shall
17 not exceed the amount of tax which would be imposed on the
18 taxpayer’s business income attributable to the enterprise zone
19 determined as if that attributable income represented all of the
20 income of the taxpayer subject to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 enterprise zone. For that purpose, the taxpayer’s business
24 attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101).
26 That business income shall be further apportioned to the enterprise
27 zone in accordance with Article 2 (commencing with Section
28 25120) of Chapter 17, modified for purposes of this section in
29 accordance with paragraph (3).

30 (3) Business income shall be apportioned to the enterprise zone
31 by multiplying the total California business income of the taxpayer
32 by a fraction, the numerator of which is the property factor plus
33 the payroll factor, and the denominator of which is two. For
34 purposes of this paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the enterprise zone during
38 the income year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(l) (1) Except as provided in paragraph (2), this section shall cease to be operative on January 1, 2014, and shall be repealed on December 1, 2019. A credit shall not be allowed under this section with respect to an employee who first commences employment with a taxpayer on or after January 1, 2014.

(2) This section shall continue to apply with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

~~SEC. 26.~~

SEC. 27. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “tax” (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

1 (1) Fifty percent of the qualified wages in the first year of
2 employment.

3 (2) Forty percent of the qualified wages in the second year of
4 employment.

5 (3) Thirty percent of the qualified wages in the third year of
6 employment.

7 (4) Twenty percent of the qualified wages in the fourth year of
8 employment.

9 (5) Ten percent of the qualified wages in the fifth year of
10 employment.

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) That portion of wages paid or incurred by the qualified
14 taxpayer during the taxable year to qualified disadvantaged
15 individuals that does not exceed 150 percent of the minimum wage.

16 (B) The total amount of qualified wages which may be taken
17 into account for purposes of claiming the credit allowed under this
18 section shall not exceed two million dollars (\$2,000,000) per
19 taxable year.

20 (C) Wages received during the 60-month period beginning with
21 the first day the qualified disadvantaged individual commences
22 employment with the qualified taxpayer. Reemployment in
23 connection with any increase, including a regularly occurring
24 seasonal increase, in the trade or business operations of the
25 qualified taxpayer does not constitute commencement of
26 employment for purposes of this section.

27 (D) Qualified wages do not include any wages paid or incurred
28 by the qualified taxpayer on or after the manufacturing
29 enhancement area expiration date. However, wages paid or incurred
30 with respect to qualified employees who are employed by the
31 qualified taxpayer within the manufacturing enhancement area
32 within the 60-month period prior to the manufacturing enhancement
33 area expiration date shall continue to qualify for the credit under
34 this section after the manufacturing enhancement area expiration
35 date, in accordance with all provisions of this section applied as
36 if the manufacturing enhancement area designation were still in
37 existence and binding.

38 (2) “Minimum wage” means the wage established by the
39 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

3 (3) “Manufacturing enhancement area” means an area designated
4 pursuant to Section 7073.8 of the Government Code according to
5 the procedures of Chapter 12.8 (commencing with Section 7070)
6 of Division 7 of Title 1 of the Government Code.

7 (4) “Manufacturing enhancement area expiration date” means
8 the date the manufacturing enhancement area designation expires,
9 is no longer binding, becomes inoperative, or is repealed.

10 (5) “Qualified disadvantaged individual” means an individual
11 who satisfies all of the following requirements:

12 (A) (i) At least 90 percent of whose services for the qualified
13 taxpayer during the taxable year are directly related to the conduct
14 of the qualified taxpayer’s trade or business located in a
15 manufacturing enhancement area.

16 (ii) Who performs at least 50 percent of his or her services for
17 the qualified taxpayer during the taxable year in the manufacturing
18 enhancement area.

19 (B) Who is hired by the qualified taxpayer after the designation
20 of the area as a manufacturing enhancement area in which the
21 individual’s services were primarily performed.

22 (C) Who is any of the following immediately preceding the
23 individual’s commencement of employment with the qualified
24 taxpayer:

25 (i) An individual who has been determined eligible for services
26 under the federal Job Training Partnership Act (29 U.S.C. Sec.
27 1501 et seq.) or its successor.

28 (ii) Any voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985, or its successor, as
30 provided pursuant to Article 3.2 (commencing with Section 11320)
31 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
32 Code.

33 (iii) Any individual who has been certified eligible by the
34 Employment Development Department under the federal Targeted
35 Jobs Tax Credit Program, or its successor, whether or not this
36 program is in effect.

37 (6) “Qualified taxpayer” means any corporation engaged in a
38 trade or business within a manufacturing enhancement area
39 designated pursuant to Section 7073.8 of the Government Code
40 and that meets all of the following requirements:

1 (A) Is engaged in those lines of business described in Codes
2 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
3 inclusive, of the Standard Industrial Classification (SIC) Manual
4 published by the United States Office of Management and Budget,
5 1987 edition.

6 (B) At least 50 percent of the qualified taxpayer's workforce
7 hired after the designation of the manufacturing enhancement area
8 is composed of individuals who, at the time of hire, are residents
9 of the county in which the manufacturing enhancement area is
10 located.

11 (C) Of this percentage of local hires, at least 30 percent shall
12 be qualified disadvantaged individuals.

13 (7) "Seasonal employment" means employment by a qualified
14 taxpayer that has regular and predictable substantial reductions in
15 trade or business operations.

16 (c) (1) For purposes of this section, all of the following apply:

17 (A) All employees of all corporations that are members of the
18 same controlled group of corporations shall be treated as employed
19 by a single qualified taxpayer.

20 (B) The credit (if any) allowable by this section with respect to
21 each member shall be determined by reference to its proportionate
22 share of the expenses of the qualified wages giving rise to the
23 credit and shall be allocated in that manner.

24 (C) Principles that apply in the case of controlled groups of
25 corporations, as specified in subdivision (d) of Section 23622.7,
26 shall apply with respect to determining employment.

27 (2) If a qualified taxpayer acquires the major portion of a trade
28 or business of another employer (hereinafter in this paragraph
29 referred to as the "predecessor") or the major portion of a separate
30 unit of a trade or business of a predecessor, then, for purposes of
31 applying this section (other than subdivision (d)) for any calendar
32 year ending after that acquisition, the employment relationship
33 between a qualified disadvantaged individual and a qualified
34 taxpayer shall not be treated as terminated if the qualified
35 disadvantaged individual continues to be employed in that trade
36 or business.

37 (d) (1) (A) If the employment, other than seasonal employment,
38 of any qualified disadvantaged individual, with respect to whom
39 qualified wages are taken into account under subdivision (b) is
40 terminated by the qualified taxpayer at any time during the first

1 270 days of that employment (whether or not consecutive) or before
2 the close of the 270th calendar day after the day in which that
3 qualified disadvantaged individual completes 90 days of
4 employment with the qualified taxpayer, the tax imposed by this
5 part for the taxable year in which that employment is terminated
6 shall be increased by an amount equal to the credit allowed under
7 subdivision (a) for that taxable year and all prior taxable years
8 attributable to qualified wages paid or incurred with respect to that
9 qualified disadvantaged individual.

10 (B) If the seasonal employment of any qualified disadvantaged
11 individual, with respect to whom qualified wages are taken into
12 account under subdivision (a) is not continued by the qualified
13 taxpayer for a period of 270 days of employment during the
14 60-month period beginning with the day the qualified
15 disadvantaged individual commences seasonal employment with
16 the qualified taxpayer, the tax imposed by this part, for the income
17 year that includes the 60th month following the month in which
18 the qualified disadvantaged individual commences seasonal
19 employment with the qualified taxpayer, shall be increased by an
20 amount equal to the credit allowed under subdivision (a) for that
21 taxable year and all prior taxable years attributable to qualified
22 wages paid or incurred with respect to that qualified disadvantaged
23 individual.

24 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
25 any of the following:

26 (i) A termination of employment of a qualified disadvantaged
27 individual who voluntarily leaves the employment of the qualified
28 taxpayer.

29 (ii) A termination of employment of a qualified disadvantaged
30 individual who, before the close of the period referred to in
31 subparagraph (A) of paragraph (1), becomes disabled to perform
32 the services of that employment, unless that disability is removed
33 before the close of that period and the qualified taxpayer fails to
34 offer reemployment to that individual.

35 (iii) A termination of employment of a qualified disadvantaged
36 individual, if it is determined that the termination was due to the
37 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
38 of Title 22 of the California Code of Regulations) of that individual.

1 (iv) A termination of employment of a qualified disadvantaged
2 individual due to a substantial reduction in the trade or business
3 operations of the qualified taxpayer.

4 (v) A termination of employment of a qualified disadvantaged
5 individual, if that individual is replaced by other qualified
6 disadvantaged individuals so as to create a net increase in both the
7 number of employees and the hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who voluntarily fails to return to the
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual who, before the close of the period
15 referred to in subparagraph (B) of paragraph (1), becomes disabled
16 and unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the qualified taxpayer fails to offer seasonal employment to
19 that qualified disadvantaged individual.

20 (iii) A failure to continue the seasonal employment of a qualified
21 disadvantaged individual, if it is determined that the failure to
22 continue the seasonal employment was due to the misconduct (as
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
24 the California Code of Regulations) of that qualified disadvantaged
25 individual.

26 (iv) A failure to continue seasonal employment of a qualified
27 disadvantaged individual due to a substantial reduction in the
28 regular seasonal trade or business operations of the qualified
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a qualified
31 disadvantaged individual, if that qualified disadvantaged individual
32 is replaced by other qualified disadvantaged individuals so as to
33 create a net increase in both the number of seasonal employees
34 and the hours of seasonal employment.

35 (C) For purposes of paragraph (1), the employment relationship
36 between the qualified taxpayer and a qualified disadvantaged
37 individual shall not be treated as terminated by either of the
38 following:

1 (i) By a transaction to which Section 381(a) of the Internal
2 Revenue Code applies, if the qualified disadvantaged individual
3 continues to be employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of conducting the
5 trade or business of the qualified taxpayer, if the qualified
6 disadvantaged individual continues to be employed in that trade
7 or business and the qualified taxpayer retains a substantial interest
8 in that trade or business.

9 (3) Any increase in tax under paragraph (1) shall not be treated
10 as tax imposed by this part for purposes of determining the amount
11 of any credit allowable under this part.

12 (e) The credit shall be reduced by the credit allowed under
13 Section 23621. The credit shall also be reduced by the federal
14 credit allowed under Section 51 of the Internal Revenue Code, as
15 amended by the Emergency Economic Stabilization Act of 2008
16 (Public Law 110-343).

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the qualified taxpayer
19 upon which the credit is based shall be reduced by the amount of
20 the credit, prior to any reduction required by subdivision (f) or (g).

21 (f) In the case where the credit otherwise allowed under this
22 section exceeds the “tax” for the taxable year, that portion of the
23 credit that exceeds the “tax” may be carried over and added to the
24 credit, if any, in the succeeding 10 taxable years, if necessary, until
25 the credit is exhausted. The credit shall be applied first to the
26 earliest taxable years possible.

27 (g) (1) The amount of credit otherwise allowed under this
28 section, including prior year credit carryovers, that may reduce
29 the “tax” for the taxable year shall not exceed the amount of tax
30 that would be imposed on the qualified taxpayer’s business income
31 attributed to a manufacturing enhancement area determined as if
32 that attributed income represented all of the net income of the
33 qualified taxpayer subject to tax under this part.

34 (2) Attributable income is that portion of the taxpayer’s
35 California source business income that is apportioned to the
36 manufacturing enhancement area. For that purpose, the taxpayer’s
37 business income attributable to sources in this state first shall be
38 determined in accordance with Chapter 17 (commencing with
39 Section 25101). That business income shall be further apportioned
40 to the manufacturing enhancement area in accordance with Article

2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the manufacturing enhancement area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the manufacturing enhancement area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding 10 taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g).

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(i) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility

1 requirements specified in paragraph (5) of subdivision (b). The
2 Employment Development Department may provide preliminary
3 screening and referral to a certifying agency. The Department of
4 Housing and Community Development shall develop regulations
5 governing the issuance of certificates pursuant to subdivision (d)
6 of Section 7086 of the Government Code and shall develop forms
7 for this purpose.

8 (2) Retain a copy of the certification and provide it upon request
9 to the Franchise Tax Board.

10 (j) (1) Except as provided in paragraph (2), this section shall
11 cease to be operative for taxable years beginning on or after January
12 1, 2014, and shall be repealed on December 1, 2019.

13 (2) The section shall continue to apply with respect to qualified
14 employees who are employed by the qualified taxpayer within the
15 manufacturing enhancement area within the 60-month period
16 immediately preceding January 1, 2014, and qualified wages paid
17 or incurred with respect to those qualified employees shall continue
18 to qualify for the credit under this section for taxable years
19 beginning on or after January 1, 2014, in accordance with this
20 section, as amended by the act adding this subdivision.

21 ~~SEC. 27.~~

22 *SEC. 28.* Section 23646 of the Revenue and Taxation Code is
23 amended to read:

24 23646. (a) For each taxable year beginning on or after January
25 1, 1995, there shall be allowed as a credit against the “tax” (as
26 defined in Section 23036) to a qualified taxpayer for hiring a
27 qualified disadvantaged individual or a qualified displaced
28 employee during the taxable year for employment in the LAMBRA.
29 The credit shall be equal to the sum of each of the following:

30 (1) Fifty percent of the qualified wages in the first year of
31 employment.

32 (2) Forty percent of the qualified wages in the second year of
33 employment.

34 (3) Thirty percent of the qualified wages in the third year of
35 employment.

36 (4) Twenty percent of the qualified wages in the fourth year of
37 employment.

38 (5) Ten percent of the qualified wages in the fifth year of
39 employment.

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that does not exceed 150 percent
5 of the minimum wage.

6 (B) The total amount of qualified wages which may be taken
7 into account for purposes of claiming the credit allowed under this
8 section shall not exceed two million dollars (\$2,000,000) per
9 taxable year.

10 (C) Wages received during the 60-month period beginning with
11 the first day the individual commences employment with the
12 taxpayer. Reemployment in connection with any increase, including
13 a regularly occurring seasonal increase, in the trade or business
14 operation of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (D) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the LAMBRA expiration date.
18 However, wages paid or incurred with respect to qualified
19 disadvantaged individuals or qualified displaced employees who
20 are employed by the qualified taxpayer within the LAMBRA within
21 the 60-month period prior to the LAMBRA expiration date shall
22 continue to qualify for the credit under this section after the
23 LAMBRA expiration date, in accordance with all provisions of
24 this section applied as if the LAMBRA designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by the
27 Industrial Welfare Commission as provided for in Chapter 1
28 (commencing with Section 1171) of Part 4 of Division 2 of the
29 Labor Code.

30 (3) “LAMBRA” means a local agency military base recovery
31 area designated in accordance with the provisions of Section 7114
32 of the Government Code.

33 (4) “Qualified disadvantaged individual” means an individual
34 who satisfies all of the following requirements:

35 (A) (i) At least 90 percent of whose services for the taxpayer
36 during the taxable year are directly related to the conduct of the
37 taxpayer’s trade or business located in a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her services for
39 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 (i) An individual who has been determined eligible for services
7 under the federal Job Training Partnership Act (29 U.S.C. Sec.
8 1501 et seq.), or its successor.

9 (ii) Any voluntary or mandatory registrant under the Greater
10 Avenues for Independence Act of 1985 provided for pursuant to
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
12 3 of Division 9 of the Welfare and Institutions Code.

13 (iii) An economically disadvantaged individual 16 years of age
14 or older.

15 (iv) A dislocated worker who meets any of the following
16 conditions:

17 (I) Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 (II) Has been terminated or has received a notice of termination
22 of employment as a result of any permanent closure or any
23 substantial layoff at a plant, facility, or enterprise, including an
24 individual who has not received written notification but whose
25 employer has made a public announcement of the closure or layoff.

26 (III) Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 (IV) Was self-employed (including farmers and ranchers) and
32 is unemployed as a result of general economic conditions in the
33 community in which he or she resides or because of natural
34 disasters.

35 (V) Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 (VI) Was an active member of the Armed Forces or National
39 Guard as of September 30, 1990, and was either involuntarily
40 separated or separated pursuant to a special benefits program.

1 (VII) Experiences chronic seasonal unemployment and
2 underemployment in the agriculture industry, aggravated by
3 continual advancements in technology and mechanization.

4 (VIII) Has been terminated or laid off or has received a notice
5 of termination or layoff as a consequence of compliance with the
6 Clean Air Act.

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a service-connected disabled veteran,
9 veteran of the Vietnam era, or veteran who is recently separated
10 from military service.

11 (vi) An ex-offender. An individual shall be treated as convicted
12 if he or she was placed on probation by a state court without a
13 finding of guilty.

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) CalFresh benefits.

18 (IV) State and local general assistance.

19 (viii) Is a member of a federally recognized Indian tribe, band,
20 or other group of Native American descent.

21 (5) “Qualified taxpayer” means a corporation that conducts a
22 trade or business within a LAMBRA and, for the first two taxable
23 years, has a net increase in jobs (defined as 2,000 paid hours per
24 employee per year) of one or more employees as determined below
25 in the LAMBRA.

26 (A) The net increase in the number of jobs shall be determined
27 by subtracting the total number of full-time employees (defined
28 as 2,000 paid hours per employee per year) the taxpayer employed
29 in this state in the taxable year prior to commencing business
30 operations in the LAMBRA from the total number of full-time
31 employees the taxpayer employed in this state during the second
32 taxable year after commencing business operations in the
33 LAMBRA. For taxpayers who commence doing business in this
34 state with their LAMBRA business operation, the number of
35 employees for the taxable year prior to commencing business
36 operations in the LAMBRA shall be zero. If the taxpayer has a net
37 increase in jobs in the state, the credit shall be allowed only if one
38 or more full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the LAMBRA
40 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a qualified taxpayer that first commences
8 doing business in the LAMBRA during the taxable year, for
9 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
10 the divisors “2,000” and “12” shall be multiplied by a fraction, the
11 numerator of which is the number of months of the taxable year
12 that the taxpayer was doing business in the LAMBRA and the
13 denominator of which is 12.

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 that has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

25 (7) “Seasonal employment” means employment by a qualified
26 taxpayer that has regular and predictable substantial reductions in
27 trade or business operations.

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, becomes inoperative, or
30 is repealed.

31 (c) For qualified disadvantaged individuals or qualified displaced
32 employees hired on or after January 1, 2001, the taxpayer shall do
33 both of the following:

34 (1) Obtain from the Employment Development Department, as
35 permitted by federal law, the administrative entity of the local
36 county or city for the federal Job Training Partnership Act, or its
37 successor, the local county GAIN office or social services agency,
38 or the local government administering the LAMBRA, a
39 certification that provides that a qualified disadvantaged individual
40 or qualified displaced employee meets the eligibility requirements

1 specified in subparagraph (C) of paragraph (4) of subdivision (b)
2 or subparagraph (A) of paragraph (6) of subdivision (b). The
3 Employment Development Department may provide preliminary
4 screening and referral to a certifying agency. The Department of
5 Housing and Community Development shall develop regulations
6 governing the issuance of certificates pursuant to Section 7114.2
7 of the Government Code and shall develop forms for this purpose.

8 (2) Retain a copy of the certification and provide it upon request
9 to the Franchise Tax Board.

10 (d) (1) For purposes of this section, both of the following apply:

11 (A) All employees of all corporations that are members of the
12 same controlled group of corporations shall be treated as employed
13 by a single employer.

14 (B) The credit (if any) allowable by this section to each member
15 shall be determined by reference to its proportionate share of the
16 qualified wages giving rise to the credit.

17 (2) For purposes of this subdivision, “controlled group of
18 corporations” has the meaning given to that term by Section
19 1563(a) of the Internal Revenue Code, except that both of the
20 following apply:

21 (A) “More than 50 percent” shall be substituted for “at least 80
22 percent” each place it appears in Section 1563(a)(1) of the Internal
23 Revenue Code.

24 (B) The determination shall be made without regard to Section
25 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
26 Code.

27 (3) If an employer acquires the major portion of a trade or
28 business of another employer (hereinafter in this paragraph referred
29 to as the “predecessor”) or the major portion of a separate unit of
30 a trade or business of a predecessor, then, for purposes of applying
31 this section (other than subdivision (e)) for any calendar year
32 ending after that acquisition, the employment relationship between
33 an employee and an employer shall not be treated as terminated if
34 the employee continues to be employed in that trade or business.

35 (e) (1) (A) If the employment of any employee, other than
36 seasonal employment, with respect to whom qualified wages are
37 taken into account under subdivision (a) is terminated by the
38 taxpayer at any time during the first 270 days of that employment
39 (whether or not consecutive) or before the close of the 270th
40 calendar day after the day in which that employee completes 90

1 days of employment with the taxpayer, the tax imposed by this
2 part for the taxable year in which that employment is terminated
3 shall be increased by an amount equal to the credit allowed under
4 subdivision (a) for that taxable year and all prior income years
5 attributable to qualified wages paid or incurred with respect to that
6 employee.

7 (B) If the seasonal employment of any qualified disadvantaged
8 individual, with respect to whom qualified wages are taken into
9 account under subdivision (a) is not continued by the qualified
10 taxpayer for a period of 270 days of employment during the
11 60-month period beginning with the day the qualified
12 disadvantaged individual commences seasonal employment with
13 the qualified taxpayer, the tax imposed by this part, for the taxable
14 year that includes the 60th month following the month in which
15 the qualified disadvantaged individual commences seasonal
16 employment with the qualified taxpayer, shall be increased by an
17 amount equal to the credit allowed under subdivision (a) for that
18 taxable year and all prior taxable years attributable to qualified
19 wages paid or incurred with respect to that qualified disadvantaged
20 individual.

21 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
22 any of the following:

23 (i) A termination of employment of an employee who voluntarily
24 leaves the employment of the taxpayer.

25 (ii) A termination of employment of an individual who, before
26 the close of the period referred to in paragraph (1), becomes
27 disabled to perform the services of that employment, unless that
28 disability is removed before the close of that period and the
29 taxpayer fails to offer reemployment to that individual.

30 (iii) A termination of employment of an individual, if it is
31 determined that the termination was due to the misconduct (as
32 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
33 the California Code of Regulations) of that individual.

34 (iv) A termination of employment of an individual due to a
35 substantial reduction in the trade or business operations of the
36 taxpayer.

37 (v) A termination of employment of an individual, if that
38 individual is replaced by other qualified employees so as to create
39 a net increase in both the number of employees and the hours of
40 employment.

1 (B) Subparagraph (B) of paragraph (1) shall not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual who voluntarily fails to return to the
5 seasonal employment of the qualified taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 disadvantaged individual who, before the close of the period
8 referred to in subparagraph (B) of paragraph (1), becomes disabled
9 and unable to perform the services of that seasonal employment,
10 unless that disability is removed before the close of that period
11 and the qualified taxpayer fails to offer seasonal employment to
12 that qualified disadvantaged individual.

13 (iii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if it is determined that the failure to
15 continue the seasonal employment was due to the misconduct (as
16 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
17 the California Code of Regulations) of that individual.

18 (iv) A failure to continue seasonal employment of a qualified
19 disadvantaged individual due to a substantial reduction in the
20 regular seasonal trade or business operations of the qualified
21 taxpayer.

22 (v) A failure to continue the seasonal employment of a qualified
23 disadvantaged individual, if that individual is replaced by other
24 qualified disadvantaged individuals so as to create a net increase
25 in both the number of seasonal employees and the hours of seasonal
26 employment.

27 (C) For purposes of paragraph (1), the employment relationship
28 between the taxpayer and an employee shall not be treated as
29 terminated by either of the following:

30 (i) A transaction to which Section 381(a) of the Internal Revenue
31 Code applies, if the employee continues to be employed by the
32 acquiring corporation.

33 (ii) A mere change in the form of conducting the trade or
34 business of the taxpayer, if the employee continues to be employed
35 in that trade or business and the taxpayer retains a substantial
36 interest in that trade or business.

37 (3) Any increase in tax under paragraph (1) shall not be treated
38 as tax imposed by this part for purposes of determining the amount
39 of any credit allowable under this part.

1 (4) At the close of the second taxable year, if the taxpayer has
2 not increased the number of its employees as determined by
3 paragraph (5) of subdivision (b), then the amount of the credit
4 previously claimed shall be added to the taxpayer's tax for the
5 taxpayer's second taxable year.

6 (f) In the case of an organization to which Section 593 of the
7 Internal Revenue Code applies, and a regulated investment
8 company or a real estate investment trust subject to taxation under
9 this part, rules similar to the rules provided in Section 46(e) and
10 Section 46(h) of the Internal Revenue Code shall apply.

11 (g) The credit shall be reduced by the credit allowed under
12 Section 23621. The credit shall also be reduced by the federal
13 credit allowed under Section 51 of the Internal Revenue Code, as
14 amended by the Emergency Stabilization Act of 2008 (Public Law
15 110-343).

16 In addition, any deduction otherwise allowed under this part for
17 the wages or salaries paid or incurred by the taxpayer upon which
18 the credit is based shall be reduced by the amount of the credit,
19 prior to any reduction required by subdivision (h) or (i).

20 (h) In the case where the credit otherwise allowed under this
21 section exceeds the "tax" for the taxable year, that portion of the
22 credit that exceeds the "tax" may be carried over and added to the
23 credit, if any, in the succeeding 10 taxable years, if necessary, until
24 the credit is exhausted. The credit shall be applied first to the
25 earliest taxable years possible.

26 (i) (1) The amount of credit otherwise allowed under this section
27 and Section 23645, including any prior year carryovers, that may
28 reduce the "tax" for the taxable year shall not exceed the amount
29 of tax that would be imposed on the taxpayer's business income
30 attributed to a LAMBRA determined as if that attributed income
31 represented all of the income of the taxpayer subject to tax under
32 this part.

33 (2) Attributable income shall be that portion of the taxpayer's
34 California source business income that is apportioned to the
35 LAMBRA. For that purpose, the taxpayer's business income that
36 is attributable to sources in this state first shall be determined in
37 accordance with Chapter 17 (commencing with Section 25101).
38 That business income shall be further apportioned to the LAMBRA
39 in accordance with Article 2 (commencing with Section 25120)

1 of Chapter 17, modified for purposes of this section in accordance
2 with paragraph (3).

3 (3) Income shall be apportioned to a LAMBRA by multiplying
4 the total California business income of the taxpayer by a fraction,
5 the numerator of which is the property factor plus the payroll factor,
6 and the denominator of which is two. For purposes of this
7 paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the LAMBRA during the
11 taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the LAMBRA during the
16 taxable year for compensation, and the denominator of which is
17 the total compensation paid by the taxpayer in this state during the
18 taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, if necessary, until the credit is exhausted, as if it were an
22 amount exceeding the "tax" for the taxable year, as provided in
23 subdivision (h). However, the portion of any credit remaining for
24 carryover to taxable years beginning on or after January 1, 2014,
25 if any, after application of this subdivision, shall be carried over
26 only to the succeeding 10 taxable years, if necessary, until the
27 credit is exhausted, as if it were an amount exceeding the "tax"
28 for the taxable year, as provided in subdivision (h).

29 (j) If the taxpayer is allowed a credit pursuant to this section for
30 qualified wages paid or incurred, only one credit shall be allowed
31 to the taxpayer under this part with respect to any wage consisting
32 in whole or in part of those qualified wages.

33 (k) (1) Except as provided in paragraph (2), this section shall
34 cease to be operative on January 1, 2014, and shall be repealed on
35 December 1, 2019. A credit shall not be allowed under this section
36 with respect to an employee who first commences employment
37 with a qualified taxpayer on or after January 1, 2014.

38 (2) This section shall continue to apply with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA within

1 the 60-month period immediately preceding January 1, 2014, and
2 qualified wages paid or incurred with respect to those qualified
3 disadvantaged individuals or qualified displaced employees shall
4 continue to qualify for the credit under this section for taxable
5 years beginning on or after January 1, 2014, in accordance with
6 this section, as amended by the act adding this subdivision.

7 ~~SEC. 28.~~

8 *SEC. 29.* Section 23701i of the Revenue and Taxation Code
9 is amended to read:

10 23701i. A voluntary employees' beneficiary association
11 described in Section 501(c)(9) of the Internal Revenue Code.

12 ~~SEC. 29.~~

13 *SEC. 30.* Section 24307 of the Revenue and Taxation Code is
14 amended to read:

15 24307. (a) Section 108 of the Internal Revenue Code, relating
16 to income from discharge of indebtedness, shall apply, except as
17 otherwise provided.

18 (b) Section 108(b)(2)(B) of the Internal Revenue Code, relating
19 to general business credit, is modified by substituting "this part"
20 in lieu of "Section 38 (relating to general business credit)."

21 (c) Section 108(b)(2)(G) of the Internal Revenue Code, relating
22 to foreign tax credit carryovers, shall not apply.

23 (d) Section 108(b)(3)(B) of the Internal Revenue Code, relating
24 to credit carryover reduction, is modified by substituting "11.1
25 cents" in lieu of "33 1/3 cents" in each place in which it appears. In
26 the case where more than one credit is allowable under this part,
27 the credits shall be reduced on a pro rata basis.

28 (e) Section 108(g)(3)(B) of the Internal Revenue Code, relating
29 to adjusted tax attributes, is modified by substituting "\$9" in lieu
30 of "\$3."

31 (f) (1) The amendments to Section 108 of the Internal Revenue
32 Code made by Section 13150 of the Revenue Reconciliation Act
33 of 1993 (Public Law 103-66), relating to exclusion from gross
34 income for income from discharge of qualified real property
35 business indebtedness, shall apply to discharges occurring on or
36 after January 1, 1996, in taxable years beginning on or after January
37 1, 1996.

38 (2) If a taxpayer makes an election for federal income tax
39 purposes under Section 108(c) of the Internal Revenue Code,
40 relating to treatment of discharge of qualified real property business

1 indebtedness, a separate election shall not be allowed under
2 paragraph (3) of subdivision (e) of Section 23051.5 and the federal
3 election shall be binding for purposes of this part.

4 (3) If a taxpayer has not made an election for federal income
5 tax purposes under Section 108(c) of the Internal Revenue Code,
6 relating to treatment of discharge of qualified real property business
7 indebtedness, then the taxpayer shall not be allowed to make that
8 election for purposes of this part.

9 (g) The amendments to Section 108 of the Internal Revenue
10 Code made by Section 13226 of the Revenue Reconciliation Act
11 of 1993 (Public Law 103-66), relating to modifications of discharge
12 of indebtedness provisions, shall apply to discharges occurring on
13 or after January 1, 1996, in taxable years beginning on or after
14 January 1, 1996.

15 (h) The amendments made to Section 108(d)(7)(A) of the
16 Internal Revenue Code, relating to certain provisions to be applied
17 at the corporate level by Section 402 of the Job Creation and
18 Worker Assistance Act of 2002 (Public Law 107-147), shall apply
19 to discharges of indebtedness after December 31, 2001, in taxable
20 years ending after that date. This subdivision shall not apply to
21 any discharge of indebtedness made before March 1, 2002, pursuant
22 to a plan of reorganization filed with a bankruptcy court on or
23 before October 11, 2001.

24 (i) Section 108(i) of the Internal Revenue Code, relating to
25 deferral and ratable inclusion of income arising from business
26 indebtedness discharged by the reacquisition of a debt instrument,
27 shall not apply.

28 ~~SEC. 30.~~

29 *SEC. 31.* Section 24345.5 is added to the Revenue and Taxation
30 Code, to read:

31 24345.5. A deduction shall not be allowed for the fee imposed
32 by subsection (a) of Section 9008 of the Patient Protection and
33 Affordable Care Act (Public Law 111-148).

34 ~~SEC. 31.~~

35 *SEC. 32.* Section 24427 of the Revenue and Taxation Code is
36 amended to read:

37 24427. Section 267 of the Internal Revenue Code, relating to
38 losses, expenses, and interest with respect to transactions between
39 related taxpayers, shall apply, except as otherwise provided.

1 ~~SEC. 32.~~

2 *SEC. 33.* Section 24439 of the Revenue and Taxation Code is
3 amended to read:

4 24439. (a) No deduction shall be allowed to the issuing
5 corporation for any premium paid or incurred upon the repurchase
6 of a bond, debenture, note, or certificate or other evidence of
7 indebtedness which is convertible into the stock of the issuing
8 corporation, or a corporation in the same parent-subsidary
9 controlled group, within the meaning of Section 1563(a)(1) of the
10 Internal Revenue Code, relating to parent-subsidary controlled
11 group, as the issuing corporation, to the extent the repurchase price
12 exceeds an amount equal to the adjusted issue price plus a normal
13 call premium on bonds or other evidences of indebtedness which
14 are not convertible. The preceding sentence shall not apply to the
15 extent that the corporation can demonstrate to the satisfaction of
16 the Franchise Tax Board that such excess is attributable to the cost
17 of borrowing and is not attributable to the conversion feature.

18 (b) For purposes of subdivision (a), the adjusted issue price is
19 the issue price, as defined in Sections 1273(b) and 1274 of the
20 Internal Revenue Code, increased by any amount of discount
21 deducted before repurchase, or, in the case of bonds or other
22 evidences of indebtedness issued after February 28, 1913,
23 decreased by any amount of premium included in gross income
24 before repurchase by the issuing corporation.

25 (c) The provisions of this section shall not apply to a convertible
26 bond or other convertible evidence of indebtedness repurchased
27 pursuant to a binding obligation incurred on or before April 22,
28 1969, to repurchase such bond or other evidence of indebtedness
29 at a specified call premium, but no inference shall be drawn from
30 the fact that this section does not apply to the repurchase of such
31 convertible bond or other convertible evidence of indebtedness.

32 (d) The amendments made to this section by the act adding this
33 subdivision shall apply to repurchases on or after January 1, 2015.

34 ~~SEC. 33.~~

35 *SEC. 34.* Section 24452.1 of the Revenue and Taxation Code
36 is repealed.

37 ~~SEC. 34.~~

38 *SEC. 35.* Section 24454 is added to the Revenue and Taxation
39 Code, to read:

1 24454. Section 304(b)(5)(B) of the Internal Revenue Code,
2 relating to special rule in case of foreign acquiring corporation,
3 shall apply to acquisitions on or after January 1, 2015.

4 ~~SEC. 35.~~

5 ~~SEC. 36.~~ Section 24459 is added to the Revenue and Taxation
6 Code, to read:

7 24459. Section 382(n) of the Internal Revenue Code, relating
8 to special rule for certain ownership changes, shall not apply.

9 ~~SEC. 36.~~

10 ~~SEC. 37.~~ Section 24870 of the Revenue and Taxation Code is
11 amended to read:

12 24870. Subchapter M of Chapter 1 of Subtitle A of the Internal
13 Revenue Code, relating to regulated investment companies and
14 real estate investment trusts, shall apply, except as otherwise
15 provided in this part.

16 ~~SEC. 37.~~

17 ~~SEC. 38.~~ Section 24871 of the Revenue and Taxation Code is
18 amended to read:

19 24871. (a) (1) Section 852(b)(1) of the Internal Revenue Code,
20 relating to imposition of tax on regulated investment companies,
21 shall not apply.

22 (2) Every regulated investment company shall be subject to the
23 taxes imposed under Chapter 2 (commencing with Section 23101)
24 and Chapter 3 (commencing with Section 23501), except that its
25 “net income” shall be equal to its “investment company income,”
26 as defined in subdivision (b).

27 (3) (A) Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code
28 is modified by substituting “\$12,500” for “\$50,000.”

29 (B) Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is
30 modified by substituting the phrase “the rate of tax specified in
31 Section 23151” for the phrase “the highest rate of tax specified in
32 section 11” contained therein.

33 (C) Section 851(d)(2)(C)(iii) of the Internal Revenue Code,
34 relating to administrative provisions, is modified by substituting
35 the phrase “Article 3 of Part 10.2 (commencing with Section
36 19031), a tax imposed by this subparagraph shall be treated as a
37 tax with respect to which the deficiency procedures of such article
38 apply” for the phrase “subtitle F, a tax imposed by this
39 subparagraph shall be treated as an excise tax with respect to which
40 the deficiency procedures of such subtitle apply” contained therein.

1 (D) Section 851(i)(2) of the Internal Revenue Code, relating to
2 imposition of tax on failures, shall not apply.

3 (b) “Investment company income” means investment company
4 taxable income, as defined in Section 852(b)(2) of the Internal
5 Revenue Code, modified as follows:

6 (1) Section 852(b)(2)(A) of the Internal Revenue Code, relating
7 to an exclusion for net capital gain, does not apply.

8 (2) Section 852(b)(2)(B) of the Internal Revenue Code, relating
9 to net operating losses, is modified to deny the deduction allowed
10 under Sections 24416 and 24416.1, in lieu of denying the deduction
11 allowed by Section 172 of the Internal Revenue Code.

12 (3) In lieu of the provision of Section 852(b)(2)(C) of the
13 Internal Revenue Code, relating to special deductions for
14 corporations, no deduction shall be allowed under Sections 24402,
15 24406, 24410, and 25106.

16 (4) The deduction for dividends paid, under Section
17 852(b)(2)(D) of the Internal Revenue Code, is modified to allow
18 capital gain dividends and exempt interest dividends (to the extent
19 that interest is included in gross income under this part) to be
20 included in the computation of the deduction.

21 (c) Section 852(b)(3)(A) of the Internal Revenue Code, relating
22 to imposition of tax, shall not apply.

23 (d) (1) Section 852(b)(5) of the Internal Revenue Code, relating
24 to exempt-interest dividends, is modified by substituting the phrase
25 “that, when held by an individual, the interest therefrom is exempt
26 from taxation by this state” for the phrase “described in section
27 103(a)” contained therein.

28 (2) Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code,
29 relating to exempt interest, is modified by substituting the phrase
30 “on obligations that, if held by an individual, is exempt from
31 taxation by this state, over the amounts disallowed as deductions
32 under subdivision (b) of Section 24360 or Section 24425” for the
33 phrase “excludable from gross income under section 103(a) over
34 the amounts disallowed as deductions under sections 265 and
35 171(a)(2)” contained therein.

36 (3) Section 852(b)(5)(B) of the Internal Revenue Code, relating
37 to treatment of exempt-interest dividends by shareholders, shall
38 not apply.

39 (e) Section 854 of the Internal Revenue Code, relating to
40 limitations applicable to dividends received from regulated

1 investment companies, is modified to refer to Sections 24402,
2 24406, 24410, and 25106, in lieu of Section 243 of the Internal
3 Revenue Code.

4 (f) Section 852(g)(1)(A) of the Internal Revenue Code is
5 modified by substituting the phrase “subdivision (a) of Section
6 17145” for the phrase “the first sentence of subsection (b)(5)”
7 contained therein.

8 ~~SEC. 38.~~

9 *SEC. 39.* Section 24871.1 of the Revenue and Taxation Code
10 is repealed.

11 ~~SEC. 39.~~

12 *SEC. 40.* Section 24990.5 of the Revenue and Taxation Code
13 is amended to read:

14 24990.5. (a) Section 1201 of the Internal Revenue Code,
15 relating to alternative tax for corporations, shall not be applicable.

16 (b) The provisions of Section 1212 of the Internal Revenue
17 Code, relating to capital loss carrybacks and carryovers, are
18 modified as follows:

19 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating
20 to capital loss carrybacks, shall not apply.

21 (2) Section 1212(a)(4) of the Internal Revenue Code, relating
22 to special rules on carrybacks, shall not apply.

23 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,
24 relating to other taxpayers and carryback of losses from Section
25 1256 contracts to offset prior gains from such contracts,
26 respectively, shall not apply.

27 ~~SEC. 40.~~

28 *SEC. 41.* (a) Except as otherwise provided, the provisions of
29 this act shall apply to taxable years beginning on or after January
30 1, 2015.

31 (b) Sections 201 to 221, inclusive, of the Tax Technical
32 Corrections Act of 2014 (Title II of Division A of Public Law
33 113-295), enacted numerous technical corrections and clarifications
34 to provisions of the Internal Revenue Code, including technical
35 corrections and clarifications relating to the American Taxpayer
36 Relief Act of 2012 (Public Law 112-240), the Middle Class Tax
37 Relief and Job Creation Act of 2012 (Public Law 112-96), the
38 FAA Modernization and Reform Act of 2012 (Title IX of Public
39 Law 112-95), the Regulated Investment Company Modernization
40 Act of 2010 (Public Law 111-325), the Tax Relief, Unemployment

1 Insurance Reauthorization, and Job Creation Act of 2010 (Public
2 Law 111-312), the Creating Small Business Jobs Act of 2010 (Title
3 II of Public Law 111-240), the Hiring Incentives to Restore
4 Employment Act (Public Law 111-147), the American Recovery
5 and Reinvestment Tax Act of 2009 (Public Law 111-5), the
6 Economic Stimulus Act of 2008 (Division A of Public Law
7 110-343), the Energy Improvement and Extension Act of 2008
8 (Division B of Public Law 110-343), the Tax Extenders and
9 Alternative Minimum Tax Relief Act of 2008 (Division C of Public
10 Law 110-343), the Housing Assistance Tax Act of 2008 (Division
11 C of Public Law 110-289), the Heroes Earnings Assistance and
12 Relief Tax Act of 2008 (Public Law 110-245), the Tax Technical
13 Corrections Act of 2007 (Public Law 110-172), the Tax Relief and
14 Health Care Act of 2006 (Public Law 109-432), the Safe,
15 Accountable, Flexible, Efficient Transportation Equity Act of
16 2005: A Legacy for Users (Public Law 109-59), the Energy Tax
17 Incentives Act of 2005 (Title XIII of Public Law 109-58), and the
18 American Jobs Creation Act of 2004 (Public Law 108-357), some
19 of which are incorporated by reference into Part 10 (commencing
20 with Section 17001), Part 10.2 (commencing with Section 18401),
21 and Part 11 (commencing with Section 23001) of Division 2 of
22 the Revenue and Taxation Code. Unless otherwise provided, the
23 technical corrections described in the preceding sentence, to the
24 extent that they correct provisions that are incorporated by
25 reference into the Revenue and Taxation Code, are declaratory of
26 existing law and shall be applied in the same manner and for the
27 same periods as specified for federal purposes, or if later, the
28 specified date of incorporation.

29 ~~SEC. 41.~~

30 *SEC. 42.* It is the intent of the Legislature to confirm the
31 validity and ongoing effect of Senate Bill No. 401 of the 2009–10
32 Regular Session.

33 *SEC. 43. The Legislature finds and declares that the application*
34 *of paragraph (2) of subdivision (f) of Section 19138 of the Revenue*
35 *and Taxation Code to taxable years for which the statute of*
36 *limitations on assessments has not expired as of the effective date*
37 *of this act serves a public purpose by ensuring fair and consistent*
38 *application of California law in cases where the Franchise Tax*
39 *Board imposes on a taxpayer an alternative allocation or*

1 *apportionment method under the authority of Section 25137 of the*
2 *Revenue and Taxation Code.*

3 ~~SEC. 42.~~

4 *SEC. 44.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to provide much needed tax relief to taxpayers in
9 conformity with federal tax relief enacted in the last four years
10 and to alleviate administrative burdens on state tax agencies, it is
11 necessary that this act go into immediate effect.

O